

Sustainable Communities Overview and Scrutiny Committee

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| Schedule | Thursday 21 November 2019, 10:00 AM — 3:00 PM GMT |
| Venue | Council Chamber, Priory House, Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 9TQ |
| Description | To Chair and Members of the Committee:- Cllr D McVicar (Chair) Cllr M Foster (Vice Chair) Cllrs: Perry, Graham, Matthews, Walsh, Spicer, Farrell, Gomm Substitutes: Cllrs Maudlin, Mackey, Snelling, Firth, Versallion |
| Notes for Participants | A member of the public who wishes to speak at this meeting can register to speak online via this link: www.centralbedfordshire.gov.uk/speak This meeting may be filmed by the Council for live and/or subsequent broadcast online and can be viewed at https://centralbedfordshire.public-i.tv/core/portal/home . The Chairman will confirm if all or part of the meeting will be filmed by the Council. Any footage will be on the Council's website, a copy of it will also be retained in accordance with the Council's data retention policy. By attending the meeting, you are deemed to have consented to being filmed by the Council. Full details on the use of recordings is provided via the link above. For further information on this meeting contact: committeemeetings@centralbedfordshire.gov.uk Hard copies of the papers for this meeting are not routinely made available to those in attendance. Should you require a copy of please download this from the Council website beforehand. |

Agenda

1. Apologies for Absence

Apologies for absence and notification of substitute members.

2. Minutes

To approve as a correct record the Minutes of the meeting of the Sustainable Communities Overview and Scrutiny Committee held on 12 September 2019 and to note actions taken since that meeting.

 190912 SC OSC Minutes FINAL.docx

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3. Members' Interests

To receive from Members any declarations of interest and of any political whip in relation to any agenda item.

4. Chair's Announcements and Communications

To receive any announcements from the Chair and any matters of communication.

5. Petitions

To receive petitions from members of the public in accordance with the Public Participation Procedure as set out in Part 4G of the Constitution.

6. Questions, Statements or Deputations

To receive any questions, statements or deputations from members of the public in accordance with the Public Participation Procedure as set out in Part 4G of the Constitution.

7. Call-In

To consider any decision of the Executive referred to this Committee for review in accordance with Part 4D of the Constitution.

8. Requested Items

To consider any items referred to the Committee at the request of a Member in accordance with Part 4D of the Constitution. The following options are available to the Committee:-

- 3.3.1 If the matter is a simple one, to resolve it forthwith; or
- 3.3.2 To request the officers to prepare a report for the next meeting; or
- 3.3.3 To set up a task and finish group to investigate and report back to the Committee; or
- 3.3.4 To make recommendations to the Executive or Council, as appropriate; or
- 3.3.5 To decide to take no further action upon the request, for stated reasons

 191119 SC OSC item 8 Requested item.docx 7

9. Executive Members' Updates

To receive a brief verbal update from the Executive Members for Community Services and Regeneration

10. Planning Enforcement Plan Review

The report provides an update on the Planning Enforcement Service and asks the Committee to recommend to Executive the approval of the Planning Enforcement Plan Review so that the revised document can be used for Planning Enforcement purposes.

 191121 SC OSC item 10 Planning Enforcement Plan Review report v2.docx 8

 191121 SC OSC item 10 Appendix A .docx 13

11. Environmental Planning Report

To provide a response to the requested agenda item submitted by Councillor Zerny, the Ward Member for Potton, at the previous meeting on 12 September 2019 regarding environmental protection.

 191121 SC OSC item 11 Environmental Planning Report v2.docx 22

 191121 SC OSC item 11 Appendix A Hedgerow Regulations.docx 28

12. High Street Benchmarking Presentation

To provide Members of the Committee data following a project to compare town centre performance against other centres in the UK and within central Bedfordshire, in order to identify local priorities and inform future project development.

 191121 SC OSC item 12 High Street benchmarking presentation.pdf 38

13. Community Transport Update

To receive a verbal update on the outcomes of a recent meeting meeting to discuss community transport issues.

14. Work Programme 2019/20 and Executive Forward Plan

The report provides Members with details of the currently drafted Committee work programme and the latest Executive Forward Plan.

 191121 SC OSC item 14 work programme report .docx 61

 191121 SC OSC Item 14 App A SC OSC Work Programme.docx 64

At a meeting of Sustainable Communities Overview and Scrutiny Committee held in Priory House Council Chamber on 12 September 2019 from 10am

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| Present: | Cllr D McVicar (Chair) Cllr M Foster (Vice-Chair) | |
| Members: | Cllrs A Graham M Walsh Y Farrell | Cllrs M Matthews P Spicer C Gomm |
| Apologies: | Cllrs E Perry | |
| Substitutes | Cllrs F Firth (substitute for Cllr E Perry) | |
| Members in Attendance: | Cllrs I Dalgarno B Spurr A Zerny | Cllrs K Collins S Dixon |
| Officers in Attendance: | M Coiffait A Davie T Etheridge A Bishop R Preen | Director – Community Services AD – Development and Infrastructure Broadband Contract Manager Principal Drainage Engineer Scrutiny Policy Adviser |
| Others in Attendance: | J Glerum Superintendent J Whittred | Anglian Water Bedfordshire Police |

1. Minutes

RESOLVED that the Minutes of the meeting of the Sustainable Communities Overview and Scrutiny Committee held on 11 July 2019 be confirmed and signed by the Chairman as a correct record.

2. Members' Interests

None.

3. Chairman's Announcement and Communications

The Chair highlighted that several presentations had been submitted late and that item 12 had been omitted from the agenda in error and so would be included under the urgency procedural rules by reason of special circumstance.

4. Petitions

None.

5. Questions, Statements or Deputations

None.

6. Call-In

None.

7. Requested Items

The Ward Member for Potton submitted a requested item regarding the protection of wildlife on development sites, specifically relating to the removal of hedges and trees during bird nesting season. The Member was keen for the Council to address this and ensure the local authority had the requisite powers and appropriate resource to support the protection of wildlife, including where necessary to lobby central Government for changes to legislation.

In response to the submission the Executive Member for Regeneration and Planning expressed his sympathies and support for the protection of wildlife and explained that any additional resource requirements would have to be carefully considered against budget constraints. He would be guided by the Committee if they determined that an increase in resource was necessary and would investigate the possibility further.

In light of the submission Members discussed the following in summary:-

- That there were several ways in which the public could contact the Council regarding planning and environmental protection issues which were already in operation and that these be publicised via town and parish councils.
- The need for a preventative rather than reactive approach to planning enforcement.
- That the Construction code of Practice for Developers recently brought before the Committee should include an element regarding environmental protection and an adherence to appropriate practice on the part of developers.
- Whether it should be incumbent on developers to replace that which they removed such as trees and hedgerows.

- The importance of engaging with the voluntary sector such as the RSPB when lobbying for Government changes to legislation.
- The complexities of compiling a database of hedgerows and trees on private land.

RECOMMENDED:-

- 1. That the Executive Member engage with the voluntary sector and lobby Government for changes to planning law in relation to environmental protection.**
- 2. That a future report be delivered to the Committee in relation to environmental protection and the impact of additional resource within the planning enforcement team.**

8. Executive Members' Update

The Executive Member for Community Services highlighted a need to update the Council's policy in relation to culture and the arts, also reviewing the delivery of the library service. A peer review in relation to this would be taking place in the future and the Council would form part of this, drawing upon external expertise who would provide recommendations and advice.

The Executive Member for Planning and Regeneration confirmed that the Dunstable and Biggleswade Housing Infrastructure Funds (HIF) had been awarded and that a future report would be brought before the Committee in relation to this and town centre benchmarking. Members were advised that the Local Plan hearings had concluded and a response from the Inspector was anticipated within the next few weeks.

9. The Impact of 5G Technology and LED Lighting on Public Health

Following a request from a member of the public, a presentation was delivered to Members in relation to the impact of 5G technology and LED lighting on public health. Following a detailed review by the World Health Organisation and guidance provided by the NHS, the Council were confident that any risk to the public was minimal, notwithstanding the identified vulnerable groups.

In light of the presentation Members discussed the following in summary:-

- Whether it was possible to supply an orange filter to LED lights in areas which the identified vulnerable groups were known to reside. In response the Director confirmed that the Council would respond to any appropriate request from the public which included dimming the lights or switching them off at certain times if deemed appropriate.
- That some LED lights generated a flicker at certain frequencies and whether it was appropriate to fit a shield when necessary.

- That additional national research may be required in relation to 5G technology and that the Council would follow those guidelines published to Local Authorities by central Government.

NOTED the presentation and that the Committee were satisfied that the concerns raised had been addressed.

10. Anglian Water Update

Representatives from Anglian Water delivered a presentation in relation to water efficiency initiatives and measures to reduce the impact of flood risk zones within Central Bedfordshire, particularly with regards to surface water flooding.

In light of the presentation Members discussed the following in summary:-

- That retro-fitting drinking fountains on school premises would be assessed on a case by case basis and that as the schools for the future programme progressed, the hope was that drinking fountains would be installed automatically in new school builds.
- That Anglian Water hadn't previously considered drinking fountains within town centres but would be assessing opportunities for initiatives such as this in the future.
- That a national water bottle refill scheme had been launched whereby members of the public could refill their bottles at various establishments on the high street.
- That water saving devices available to households were free of charge and simple to install and that it would be a customer decision whether they had a water meter permanently installed following the two-year introductory period.
- That Anglian Water were engaging with agriculture and industry in order to determine where water was required most when transferring from one location to another and that they were also working with developers and households in order to install the necessary infrastructure in support of the green-water initiative.
- Whether existing development sites would be required to adopt sustainable drainage systems (SUD's) to which it was confirmed there was no duty for them to do so but it was being considered, taking into account lessons learned being applied to new development sites.
- The importance of educating town and parish councils and the public with regards to the responsibilities of Anglian Water and the Council in the planning process and that an information video would be produced in the future.

NOTED the presentation and thanked Anglian Water for their attendance.

11. Bedfordshire Police Update

Superintendent J Whittred delivered a presentation which outlined the new funding position of the Force which would help tackle serious violence and knife crime in the region, with surge funding available from the Home Office in order to support the work of the violence and exploitation reduction units. The Prime Minister had recently announced funding in order to recruit an additional 20k police officers, which would translate to an increase of approximately 200 new officers for Bedfordshire. Thematic, strategic workstreams would be introduced in order to tackle serious violence which would include partnership working and community engagement, specific and targeted campaigns, along with research and analysis. There was a need to understand the links between individuals committing and experiencing violent crime and to work alongside the multi agencies involved in other aspects of their lives, understanding that violent crime was rarely committed in isolation, instead occurring alongside other often complex issues.

The Director for Community Services highlighted the importance of understanding that it was not always those children and young people already known to the local authority, violence and serious crime was changing and now involved a much broader demographic. Criminal gangs were deploying sophisticated tactics in the recruitment, targeting and manipulation of children and vulnerable young people and it was vital that all agencies involved in tackling the issue kept up with the changing landscape. Research suggested that one in ten people were recreational users of cannabis and cocaine and that more awareness was needed on their part that they were fuelling the drugs market and the manipulation of young people in the drugs trade.

In light of the presentation Members discussed the following in summary:-

- Whether some of the additional funding would support community policing to which it was confirmed that it would and the ongoing challenge of retention following a period of recruitment.
- The effective use of CCTV when identifying those taking part in criminal behaviour.
- That the force would be targeting the cohort most likely to commit or be the victim of serious and violent crime, with data suggesting those under the age of 25 were at the highest risk. Those over the age of 25 would still be dealt with or supported via the criminal justice system as necessary.
- That current stop and search initiatives were still in operation and largely effective, with scrutiny panels in place to ensure the tactic was effectively and appropriately deployed and that all those stopped and searched were treated with respect.
- The importance of ensuring effective communication with the different communities living within Central Bedfordshire.

Noted the presentation with Members welcoming the additional funds available to Bedfordshire police, thanking them for their attendance.

12. Work Programme 2019/20 and Executive Forward Plan

AGREED the Committee Work Programme subject to the following additions:-

- **Culture and Library Peer Review - Date TBC**
- **Environmental Planning Enforcement (following the requested item) – Date TBC**

Chair

Dated

Requested item - Electric Charging Points for cars

Request submitted by Cllr T Wye

Last year the Government was handing out grants to local authorities to install street electric car chargers. <https://www.bbc.co.uk/news/amp/business-42944523>

Would propose responsible officers be present at committee to explain if CBC has applied for the grants?

If an application was successful, where have/will the chargers be located?

If a grant hasn't been applied for, is it still possible and will CBC be pursuing this option?

Central Bedfordshire Council

21 November 2019

SUSTAINABLE COMMUNITIES OVERVIEW & SCRUTINY COMMITTEE

Planning Enforcement Plan Review

Report of: Cllr Kevin Collins, Executive Member for Planning and Regeneration
(kevin.collins@centralbedfordshire.gov.uk)

Responsible Director(s): Jason Longhurst, Director of Regeneration & Business
(jason.longhurst@centralbedfordshire.gov.uk)

This report relates to a decision that is Key

Purpose of this report

The report provides an update on the Planning Enforcement Service and asks the Committee to recommend to Executive the approval of the Planning Enforcement Plan Review so that the revised document can be used for Planning Enforcement purposes.

RECOMMENDATIONS

The Committee is asked to:

1. Consider the update on the Planning Enforcement Service; and
2. Recommend to Executive approval of the Planning Enforcement Plan Review.

Overview and Scrutiny Comments/Recommendations

1. The Planning Enforcement Plan Review will be reported to the Sustainable Communities Overview & Scrutiny Committee meeting on 21 November 2019.

Issues

2. Paragraph 58 of the National Planning Policy Framework states that Local Planning Authorities “should consider publishing a local enforcement plan to manage enforcement proactively, in a way that appropriate to their area.” The Council’s approved Planning Enforcement Plan sets out how the Council will monitor development and identify and respond to breaches of planning control. It was last

updated in 2018, following a Planning Enforcement Review which took place in 2017 and was reported to the Sustainable Communities Overview and Scrutiny Committee. The current approved Plan can be viewed here:

https://www.centralbedfordshire.gov.uk/migrated_images/planning-enforcement-plan-oct-2018_tcm3-2063.pdf

3. Since then, changes have taken place within the Planning Enforcement service, which is part of Planning Delivery. This report will firstly provide an update on those changes which help to explain the review proposed for the Plan.

Planning Enforcement Service Update – Resourcing and a New Approach

4. The review of the Planning Enforcement service, conducted in 2017, looked at how the work could be covered by a part-time team leader, in post at the time. The part-time team leader vacated the post in June 2018 and a new full-time team leader started in February 2019. Also, whilst not part of the Planning Enforcement Team, two new Compliance Officer posts were created within Planning Delivery and filled in early 2019. The Compliance Officers proactively monitor larger scale developments for compliance and have thereby helped to increase capacity in the Planning Enforcement Team.
5. In addition to the above, two temporary Planning Enforcement Officers were recruited during 2019 as an interim solution until the progression to the permanent recruitment of the Gypsy & Traveller Unit within the Community Services Directorate. They have helped to clear a backlog of outstanding priority enforcement cases and move many others towards formal action.
6. The new full-time team leader has brought significant planning enforcement experience from several surrounding authorities and has sought to apply the best elements of this to the CBC planning enforcement service. With the additional resource described above, significant backlogs of old cases have been reduced and a more proactive approach has been adopted to bring cases to a conclusion much quicker and take formal action where appropriate.
7. A complete review of processes has also been undertaken. For example the receipt, assessment and allocation of enforcement cases has been streamlined. This improvement of processes and general review of the service has identified some weaknesses in the current approved Planning Enforcement Plan which the review seeks to address.

Planning Enforcement Plan Review

8. Much of the content of the existing Plan reflects good practice and should be retained. However, the following areas have been identified for improvement:

Customer Focused

9. The Plan is a public facing document and can be the first point of contact for some customers with the service. Customers are not just those who report offences but also those who have incurred the breach, or in many cases have faced investigation but have not committed a breach. It is therefore proposed to realign the language used within the document to make it more customer friendly and more reflective of the processes that are required to go through to establish whether offences have been committed.
10. The Plan has also become lengthy, overly technical and less structured as it has been revised over time. It is therefore proposed to shorten the document considerably by providing links to information about planning enforcement which can be found easily on-line (or upon request by contacting the team) and to restructure the document so it flows in order of the customer experience, making it overall a more helpful document for the customer.

Clear and effective service standards

11. The current Plan contains 12 service standards which cover the initial site visit by an Officer, notification of Ward Member and Parish Councils at various stages, acknowledgement and registration of cases, contact with the developer, officer assessment and closing the case. This number of service standards is confusing for customers and to some degree inhibits the work of officers as they spend significant time logging and generating work to meet the 12 standards and less time out on-site investigating cases.
12. The current standards are focused on the number of cases closed. This is not considered to represent an effective service for the customer. For example it can result in cases being closed as soon as a retrospective planning application is submitted. This is frustrating for the customer because as far as they are concerned the breach has not been resolved. Also, the number of cases closed does not recognise that parts of the lifespan of the case may be out of the case officer's control (e.g. an appeal lodged). A target outcome service standard is considered to be more meaningful as it drives the case towards something being done.
13. The following service level standards are therefore proposed as part of the review, which are considered to create an effective service because they avoid cases being prolonged without action, which has historically been an issue with Officer caseloads:
 - 1) Acknowledgement of valid enquiry:
We will send a written acknowledgement of all valid enquiries within 3 working days.
 - 2) Timescale for site visit:
Within 24 hours for high priority, 5 working days for medium priority and 10 working days for low priority cases.
 - 3) Assessment of most appropriate course of action:
We will decide and implement the most appropriate course of action within 28 days of receipt in 100% of cases.
 - 4) Target outcome:

We will bring 100% of cases to a target outcome within 6 months of receipt.

Improved communication

14. A number of standards around notification of cases are proposed to be removed from the current Plan, including the notification of every single case to Ward Members and Parish/Town Councils. This comprehensive approach is not considered necessary for an effective enforcement service and can result in issues. For example, a third party is being made aware of a potential breach, before the developer is aware yet in a large proportion of cases no breach has occurred. This can cause confusion in the process with the potential impact that individuals are identified as having potentially committed an offence before it is investigated.
15. The current standards would be replaced with a commitment to let Ward members and Parish/Town Council's know when a contentious or significant matter arises in their area, including every case where we have taken formal enforcement action. This improved, more focused form of communication has already been actioned by the Planning Enforcement Team and has resulted in several compliments from Ward Members and Parish/Town Council's.
16. Considering the above, a reviewed version of the Planning Enforcement Plan is attached at **Appendix A**.

Council Priorities

17. A reviewed Planning Enforcement Plan would ensure that an effective Planning Enforcement service is provided to monitor developments for compliance and identify and respond to breaches of planning control. The reviewed Plan would therefore meet the following Council priorities:
 - Enhancing Central Bedfordshire
 - Great resident services
 - A more efficient and responsive Council.

Legal Implications

18. There are no legal implications arising from the Planning Enforcement Plan review.

Financial and Risk Implications

19. Increasing the effectiveness of the Planning Enforcement service by a review of the Planning Enforcement Plan could result in more formal legal action being taken to prosecute against unlawful development. Whilst the Council would only seek to take formal action where appropriate and when it was considered we had a good chance of being successful, there is a risk that costs could be awarded against the Council in unsuccessful prosecution cases. An increase in formal action could also result in an increase in the number of appeals. Any appeals or costs awarded against the Council would be funded by the existing Planning Delivery service budget.

Equalities Implications

20. The Council has a duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics, age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The update contained within this report does not prejudice this duty and ensures that any investigation work or action in respect of unauthorised development is applied equally across all residents. A failure to comply with any condition or limitation subject to which planning permission has been granted can include provisions relating to inclusive and accessible design.

Conclusion and next Steps

21. There have been recent significant changes to the Planning Enforcement service including a review of processes and the effectiveness of the Planning Enforcement Plan. A number of improvements to the Plan have been identified and it is recommended that Executive approve the Plan review and delegate authority to the Director of Regeneration and Business, in consultation with the Executive Member for Planning and Regeneration to make any minor amendments to the Plan should they be required.

Appendices

Appendix A: Draft Planning Enforcement Plan

Background Papers

None

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Appendix A

PLANNING ENFORCEMENT PLAN

DRAFT

1.0 INTRODUCTION

- 1.1 Planning Enforcement is part of Central Bedfordshire Council's Planning Delivery service which ensures the high quality of buildings and environments in accordance with Government policies and the Council's development policies as detailed in the Local Plan for Central Bedfordshire.
- 1.2 The National Planning Policy Framework (NPPF) recognises that effective enforcement is important to maintain public confidence in the planning system and goes on to suggest that Local Planning Authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area.
- 1.3 This document sets out how Central Bedfordshire Council will monitor development and identify and respond to breaches of planning control.

Scope

- 1.4 Section 171A of the Town and Country Planning Act 1990 defines a breach of planning control as:
- The carrying out of development without the required planning permission; or
 - Failing to comply with any condition or limitation subject to which planning permission has been granted.
- 1.5 As well as breaches of planning control, the planning enforcement service also responds to:
- Work in contravention of Tree Preservation Orders
 - Unauthorised work to trees in conservation areas
 - Unauthorised alterations to listed buildings
 - Contraventions of the Hedgerow Regulations
 - Contraventions of the Advertisement Regulations
 - When the untidy condition of land and buildings is detrimental to the appearance of the surrounding area

2.0 REPORTING A BREACH OF PLANNING CONTROL OR OTHER RELEVANT MATTER

- 2.1 The Council has published an [online form on our website](#) which captures the information that helps us decide on the most appropriate response and this should be used for the majority of enquires.
- 2.2 Where it is possible that unauthorised works such as the felling of a protected tree or alterations to a listed building may result in irreparable damage it is always preferable to call us on 0300 300 8000. In addition to the harm that may be caused, delays in dealing with these cases may result in a loss of evidence and hinder any subsequent investigation or prosecution so it is important that we are made aware of such concerns as soon as possible. We might also need to speak to the person contacting us to make sure that we capture all the relevant information straight away.
- 2.3 If we receive an enquiry that is not a planning enforcement matter we will, wherever possible, provide appropriate advice and direct the enquirer appropriately. Some of the things that are occasionally reported to us but do not fall within the scope of the planning enforcement service are:
- Disputes over land ownership and the location of boundaries
 - Breaches of restrictive covenants and legal agreements
 - Nuisance parking and activities on the highway that do not amount to a breach of planning control
 - Building site safety
 - Breaches of the Building Regulations

Confidentiality

- 2.4 We are required by law to keep a publicly available register of [enforcement notices](#) that we have served but much of the information we gather during an enforcement investigation is kept strictly confidential because it relates to third parties. All the data that we gather during our investigations is treated in accordance with the General Data Protection Regulation (GDPR), the Data Protection Act (DPA) and may be subject to requests under the Freedom of Information Act (FOI) and the Environmental Information Regulations (EIR).
- 2.5 This means that we would not disclose the identity of a person reporting a matter to us without their express permission to do so. Similarly, during the investigation we may find out things about a developer or their site that we are not able to share with the person that raised the matter with us.
- 2.6 The only exception is when the source of an enquiry is a Ward Councillor or a Town or Parish Council or Councillor and they have raised the matter with us in their official capacity on behalf of the community which they represent. In these cases we would normally disclose their identity if asked by a developer. We would not do so if the Councillor had contacted us in their personal capacity as a resident. If we are unsure if a Councillor has contacted us in their official or personal capacity we will ask them to clarify before investigating their enquiry.

- 2.7 Anonymous complaints will be recorded as such and the details of the enquirer will not be logged. The complaint will be subject to an initial desktop assessment and we will only progress the case if it appears that some significant harm is being caused. We will not normally provide any updates to anonymous enquirers if they should contact us again.

Proactive compliance and monitoring

- 2.8 We have a team of compliance officers who conduct inspections of building sites to ensure that development is being carried out in accordance with approved plans and planning conditions. Specialist minerals and waste planning officers also carry out proactive monitoring of sites.
- 2.9 Any enforcement cases arising from proactive monitoring inspections are dealt with in accordance with this plan.

3.0 PLANNING ENFORCEMENT INVESTIGATIONS

- 3.1 Planning enforcement enquiries are quite varied and can sometimes be technical and legally complicated. However, most will usually follow the same general route:

Receipt and allocation

- 3.2 All enquiries are subject to an initial assessment to check that they are valid. A valid enquiry is where we have received enough information to allow us to establish that it appears that a matter that falls within the enforcement team's scope has occurred or further investigation is warranted.
- 3.3 If the matter does not fall within scope or we do not think that further investigation is warranted we will advise the enquirer accordingly and direct them to the most appropriate authority.
- 3.4 We may sometimes need to ask a person reporting something to provide more details to help us establish if their enquiry is valid. It is unlikely that we would take any further action if an enquiry does not appear to be valid. We would also not normally progress enquiries that appear to be vexatious or motivated by reasons other than concern about planning harm if none is apparent.
- 3.5 All valid enquiries will be given a priority for investigation based on the potential harm that may be caused.

High Priority

Works that are likely to cause serious and irreparable harm.

Unauthorised works causing damage to the special character of listed buildings or conservation areas, the removal of protected trees and hedgerows and development on environmentally sensitive sites or where

there is a risk of pollutants being released are most likely to fall in this category.

Medium Priority

Works that may cause significant harm to amenity, heritage or the environment.

Large scale development affecting designated land such as conservation areas, green belt, AONB etc are likely to fall in this category.

Low Priority

Works that are unlikely to cause significant or long-lasting harm to the area.

Most householder development such as garden buildings, alterations and extensions to dwellings along with minor breaches of planning conditions and the advertisement regulations will normally be included in this category.

- 3.6 Once an enquiry has been assessed as being valid and given a priority it will be allocated to a case officer for investigation. We will also send a written acknowledgement to the enquirer that includes the name and contact details of the case officer.

SERVICE LEVEL 1 – Acknowledgment of valid enquiry

We will send a written acknowledgement of all valid enquiries within 3 working days.

- 3.7 We will not routinely advise Ward Members and Parish/Town Councils of every enforcement enquiry that we investigate. We will however let them know when a contentious or significant matter arises in their area; including in every case where we have taken formal enforcement action.

Desktop investigation

- 3.8 The investigating officer will make a desktop assessment to check any relevant planning history and constraints on the site as well as any other information that may be helpful including Land Registry searches, Companies House and social media.
- 3.9 The officer may also ask colleagues in other teams to see if they have any history or knowledge of the site that may be relevant. Sometimes, it is helpful to speak to the Ward Member or Town or Parish Council at this stage to see if there is any local knowledge that may assist.

Site visit

- 3.10 A site visit is not always necessary but when it is the officer will attend in all cases according to the following service standard:

SERVICE LEVEL 2 – Time to site visit

| Priority | Timescale |
|----------|-----------------|
| High | 24 hours |
| Medium | 5 working days |
| Low | 10 working days |

- 3.11 All planning enforcement officers carry photo identification and a [summary of their rights of entry](#). On arrival at a site they will always identify themselves, show their identification badge and explain the reason for their visit.
- 3.12 We will not usually enter land without the permission of the landowner, or other person entitled to give permission, but sometimes it is necessary to exercise our rights of entry. We may not always give advance notice if we intend to do this. However, in the case of a building used as a dwelling we will always provide at least 24 hours' written notice before exercising our rights of entry.
- 3.13 If entry is refused, or we think it is reasonably likely to be refused and it is otherwise appropriate to do so we will apply to the Court for a warrant to enter land and buildings.
- 3.14 Planning rules can be complicated, and we understand that sometimes people unknowingly find themselves in breach of planning control, so we will always be helpful, courteous and understanding.

Further inquiries

- 3.15 Sometimes it is not possible to establish whether a breach of planning control has occurred after a single visit. This is particularly the case with an alleged unauthorised change of use. On these occasions we might ask the person that has raised the matter with us to complete diary sheets to keep a record of any activities that are apparently related to a breach of planning control.
- 3.16 If we make 3 site visits and are unable to establish that a breach of planning control has occurred then we will usually close the case.
- 3.17 We have a range of notices that we can serve to compel a developer to tell us about potentially unauthorised development and we will use these where it is appropriate to do so.

4.0 DECIDING ON THE MOST APPROPRIATE COURSE OF ACTION

- 4.1 Within 28 days of receiving a case we aim to make an assessment of the most appropriate course of action and will inform. Likely outcomes of the assessment are:
- Establish no breach of planning control & close the case

- Informal request to the developer to remedy a breach of planning control by removing unauthorised development or altering so that it is permitted development, or ceasing an unauthorised use
- Invite a retrospective planning application
- Decide it is not expedient in the public interest to take any further action
 - Further negotiation/investigation required with a reason given
 - Move to formal enforcement action

SERVICE LEVEL 3 – Assessment of the most appropriate course of action

We will decide and implement the most appropriate course of action within 28 days of receipt in 100% of cases.

- 4.2 We will inform the developer of our proposed course of action and any action that we expect them to take as quickly as possible. We will usually also keep the enquirer updated, subject to the restrictions on confidentiality mentioned above. When we identify a breach of planning control we will assess the development against the relevant local planning policies and guidance and the National Planning Policy Framework.
- 4.3 In addition to planning policies we will also have regard to the provisions of the [European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14](#) in our decision making to take into account the potential impact on health, housing and the welfare of those affected by our action to make sure that the response is proportionate.
- 4.4 We will also ensure that our decisions are made in accordance with the Council's [public sector Equality Duty](#).

Minor breaches of planning control

- 4.5 Sometimes we find a minor or technical breach of planning control that does not cause any planning harm.
- 4.6 In these cases we would not take any formal action but advise the landowner or developer that we have identified unauthorised development that they may wish to remedy by way of the submission of the relevant application. We would not insist on them doing this but point out that a record of the breach has been made and its existence may cause a problem if they should ever wish to sell the property.

Negotiating an outcome

- 4.7 If the unauthorised development is demonstrably harmful we will seek a remedy. Normally, but not always, we will ask the developer to put things right before considering the issue of a formal notice. In these cases we will always set a deadline that is proportionate to the breach by which we would expect the

developer to carry out the required actions. If the developer does not comply we would move to the consideration of formal enforcement action.

- 4.8 If unauthorised development appears to have some planning merit or may apparently be made acceptable by the imposition of planning conditions, we may invite the developer to make a retrospective application for planning permission. Providing a valid application is made within the agreed timescale we would delay consideration of formal enforcement action until it has been determined.
- 4.9 The fact that unauthorised development has already been carried out has no bearing on the outcome of a retrospective planning application and if it were to be refused then the matter would be referred back to the enforcement team for consideration of formal action.

Formal enforcement action

- 4.10 Formal enforcement action means issuing a notice or obtaining an injunction. It is important to note that planning enforcement is a discretionary power and the Council may only take formal action when it is expedient in the public interest to do so and the action is proportionate to the breach of planning control.
- 4.11 The Council has a range of notices that it can serve in response to unauthorised development and more details about these are available on the [Government's website](#) Most formal enforcement action is subject to a right of appeal; either to the Planning Inspectorate or the Magistrates Court, depending on the type of action that has been taken and this can cause significant delays in the case.
- 4.12 Sometimes it is necessary to take formal action straight away if it is in the public interest to do so. These cases are likely to be where there is the risk of irreparable damage to heritage or the environment or where unauthorised development creates a risk to health and safety.
- 4.13 If the requirements of an enforcement notice are not met then we will consider [exercising our powers](#) to enter the land and carry out the work ourselves. When we do this we will always seek to recover our costs from the landowner, or other appropriate person.
- 4.14 In addition to or instead of direct action we also may prosecute somebody if they have not complied with an enforcement, or other notice.

Criminal offences

- 4.15 It is not a criminal offence to carry out unauthorised development but there are some planning related matters that may be prosecuted. Examples include:
- Failure to comply with a formal notice
 - Unauthorised alterations to a listed building
 - The display of an unauthorised advertisement
 - The removal of a protected hedgerow

- Unauthorised works to or the felling of a tree that is subject to a Tree Preservation Order (TPO) or in a conservation area
- 4.16 Investigations into these cases will be conducted in accordance with the provisions of the Police and Criminal Evidence Act. The decision to prosecute an offence will ultimately be made, having regard to advice provided by the Council's legal advisors in light of the Prosecutors Code of Conduct.
- 4.17 If a person is convicted of a planning offence from which they have benefitted financially the Council would always consider further action under the Proceeds of Crime Act.

5.0 CLOSING CASES

- 5.1 Enforcement cases can be complicated and often subject to delays outside of our control, such as an appeal being lodged, and sometimes it can take a long time to remedy a breach of planning control and close a case. It is not therefore appropriate to simply use the number of cases closed as a measure of the effectiveness of the service. Instead, we monitor the number of cases brought to a target outcome, which is where we have either brought unauthorised development into compliance or commenced proceedings that are now outside of our control.
- 5.2 Target outcomes include:
- Having alterations made to unauthorised development, or agreeing a timescale by which alterations will be made, to bring it into compliance with either an existing planning permission or permitted development rights
 - The submission of a retrospective planning application
 - The issue of a formal notice
 - The commencement of prosecution proceedings
 - Deciding that it is not expedient to take any formal action

SERVICE LEVEL 4 – Target outcome

We will bring 100% of cases to a target outcome within 6 months of receipt

- 5.3 Cases will be subject to ongoing review to ensure they are brought to a close as soon as possible after a target outcome has been reached and we will continue to update all relevant parties during this time. We will also inform them when the case has been closed and give the reason why.
- 5.4 We will close an enforcement case for the following reasons;

- The breach of planning control has been remedied; either by the developer taking remedial action with or without formal enforcement action being taken or retrospective planning permission being granted
- We have not been able to identify a breach of planning control
- We have identified a breach of planning control but it is not expedient in the public interest to take any formal enforcement action.

DRAFT

Central Bedfordshire Council

21 November 2019

SUSTAINABLE COMMUNITIES OVERVIEW & SCRUTINY COMMITTEE

Environmental Planning Report

Report of: Cllr Kevin Collins, Executive Member for Planning and Regeneration
(kevin.collins@centralbedfordshire.gov.uk)

Responsible Director(s): Jason Longhurst, Director of Regeneration & Business
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Purpose of this report

To provide a response to the requested agenda item submitted by Councillor Zerny, the Ward Member for Pottton, at the previous meeting on 12th September 2019 regarding environmental protection.

RECOMMENDATIONS

The Committee is asked to consider and recommend to Executive the following proposals:

1. The preparation of an Environmental Code of Practice for Developers and Contractors to be endorsed for Development Management purposes.
2. That the Executive Member for Planning and Regeneration lobby Government to amend existing legislation to require developers to notify the Local Planning Authority at least 2 years prior to submission of any planning application of their intention to develop land, thereby allowing surveying and monitoring of the land for natural features to ensure their retention where possible.

Issues

1. The previous OSC meeting in September 2019 considered a request for an agenda item, under rule 3 of Part 4D of the Constitution, submitted by Councillor Zerny, the Ward Member for Potton, for greater environmental protection of natural features such as hedgerows, trees, meadows and wildlife which are under threat of development. Following a discussion, the Committee recommended the following:
 1. That the Executive Member engage with the voluntary sector and lobby Government for changes to planning law in relation to environmental protection.
 2. That a future report be delivered to the Committee in relation to environmental protection and the impact of additional resource within the planning enforcement team.

This report discusses and seeks to address both recommendations.

Legislative Background

2. In order to assist Members it is firstly necessary to set out the legislative background on environmental protection so that Members can understand the controls that are already in place and available to the Council to take action to address this issue.
3. The note attached at **Appendix 1** explains the current legislative provisions set out in the Hedgerow Regulations 1997. This highlights that most hedgerows within Central Bedfordshire can be classed as either Protected or Important under the definitions of the Regulations given that they are either on or next to agricultural land and are afforded protection accordingly. Removal of Protected hedgerows requires prior notification to the Local Planning Authority who can then decide if the hedgerow is classed as Important. Removal of either a Protected or Important hedgerow in contravention of the Regulations is an offence and can result in a fine, for which there is no upper limit and can take into account any financial benefit that the defendant has accrued or is likely to accrue in carrying out the offence.
4. Trees may either be protected by virtue of a Tree Preservation Order (TPO) or if located within a Conservation Area then consent from the Local Planning Authority will be required for any works to or removal of the tree.
5. Also explained by **Appendix A** (para 9.1) is that all nesting birds are protected, and it is an offence under the Wildlife and Countryside Act 1981 (as amended) to damage or disturb their nest sites. Any offences should be reported directly to the Police.
6. In addition to the above legislative provisions, in the case of development proposals, the Local Planning Authority is able to attach conditions to any planning permission to seek the protection of a tree, hedgerow or any other natural features worthy of retention during construction works and for these to be retained, usually as part of a landscaping scheme.

Environmental Protection Request

7. Councillor Zerny's background paper to his request highlights that despite the above legislative provisions, some developers will remove hedgerows and other natural capital prior to planning applications being submitted. In some cases they will remove

natural features after planning permission has been granted but prior to commencement of development (i.e. laying foundations) as part of their site clearance works. This means that any planning conditions to retain the natural features would not have come into effect.

8. In these instances, if a hedgerow is classed as Protected or Important or a tree is protected then the Local Planning Authority can still act as described above. By way of example the Planning Enforcement Team are currently investigating a case involving the removal of an Important hedgerow and one of the powers available to the Local Planning Authority is prosecuting in accordance with the regulations. Whilst powers exist to protect hedgerows and trees and take action against their removal, Cllr Zerny's paper does highlight that in cases where the developer may not be aware of the Regulations, or willfully ignores them, wholesale or even partial site clearance for development purposes can result in such natural features and any others being lost.

Discussion and Officer Recommendations

9. While it appears that sufficient legislation exists to protect and take action against the removal of Protected and Important hedgerows and trees it is considered that improved preventative measures could be sought to prevent the removal of natural features. There is not one simple solution but there are potentially a number of actions which could be taken in the short, medium and longer term.
10. In the first instance, an Environmental Protection Code for Developers and Contractors could be produced. This could follow a similar format to the Construction Code of Practice for Developers and Contractors which was recently endorsed by Executive for Development Management purposes:
(https://www.centralbedfordshire.gov.uk/info/44/planning/674/codes_of_practice_for_planning).
11. Whilst the existence of a Code would not guarantee environmental protection for natural features or replace existing powers provided to the Council under legislation, an Environmental Protection Code for Developers and Contractors could require developers to agree to:
 - comply with existing legislation for hedgerows, trees, nesting birds and outline other environmental protection legislation such as pollution control; and
 - comply with industry best practice for tree and hedgerow protection during construction works;
 The Code would be promoted by Officers during pre-application discussions and developer's agreement to comply with the Code would be sought in the event of any planning application.

Recommendation 1:

The preparation of an Environmental Code of Practice for Developers and Contractors to be endorsed for Development Management purposes.

12. The above would deal with instances where a developer makes their intention to develop land known to the Local Planning Authority. There is no legislative requirement for a developer to notify of their intention to develop land and there is no

statutory requirement to seek pre-application advice. To tackle this a medium-term solution could be to lobby government to amend the legislation to require developers to notify the Local Planning Authority of their intention to develop which would allow the Council the opportunity to survey and monitor the land.

Recommendation 2:

The Executive Member for Planning and Regeneration lobby Government, in consultation with the voluntary sector, to amend existing legislation to require developers to notify the Local Planning Authority at least 2 years prior to submission of any planning application of their intention to develop the land thereby allowing surveying and monitoring of the land for natural capital to ensure its retention where possible.

13. Should the lobbying to amend the legislation prove successful, additional resource would be required for surveying and monitoring work given that there is no spare capacity to undertake this. This is therefore a longer-term measure that would have budgetary implications and would need to be explored further at some point in the future, dependent on the outcome of the lobbying.
14. In respect of engaging the voluntary sector to assist with surveying and monitoring work there are issues with this that the Committee should be aware of. Firstly, whilst Planning Enforcement Officers and the Police have powers available to them to enter land, the same does not apply to others and could, at worst lead to prosecution for trespass. It could also pose health and safety issues that would require specialist training such as dealing with aggressive landowners, trip hazards etc. Also, legislation can be complex and require specialist interpretation and access to records (e.g. historic maps). Whilst surveys of natural features by the voluntary sector would be helpful, any findings would need to be verified by specialist officers which would require considerable additional resource and thereby be subject to the resource issues outlined above. The voluntary sector can however already assist by reporting any offences to the Planning Enforcement Team via the following form:

https://forms.centralbedfordshire.gov.uk/officeforms/Planning_Enforcement.ofml

Council Priorities

15. The recommendations to improve environmental protection directly meet the Council's priority of Enhancing Central Bedfordshire.

Legal Implications

16. Under the Hedgerows Regulations 1997 and the Town and Country Planning Act 1990 (as amended) the Council have specific powers to deal with the removal of Protected and Important hedgerows and protected trees.
17. If there is a change in legislation at some point in the future, it is hoped it would strengthen existing controls to require developers to notify the Local Planning Authority in advance of submission of a planning application so that surveying and monitoring of the site could take place and the developer could be made aware of their obligations under the legislation. Any Environmental Code of Practice endorsed

by the Council would compliment these powers by seeking to prevent instances of unauthorized hedgerow or tree removal on development sites and thereby cause environmental harm.

18. The ward member for Potton, Cllr Zerny, requested that an item was included on the agenda of the previous committee meeting pursuant to rule 3 of the Overview and Scrutiny Procedure Rules (Part 4D of the Constitution). Under rule 3.3.2 the Committee can and did request officers to prepare a report for the next meeting. Further, under rule 3.3.4 the committee can make recommendations to the Executive as appropriate.

Financial and Risk Implications

19. There are no financial implications arising directly from this report. However should an Environmental Protection Code be prepared and endorsed for Development Management purposes and it subsequently be necessary for the Council to enforce compliance with the Code through the courts then there could be legal costs to the Council which may not be recoverable.
20. Existing legislation exists to prevent and enforce against the removal of protected hedgerows and trees. Any Environmental Protection Code could however reduce the risk of their removal without the Council's consent and thereby reduce environmental harm.

Equalities Implications

21. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimization and foster good relations in respect of nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
22. An Environmental Protection Code could help to ensure that the impacts of development on the environment are minimized for all residents.

Conclusion and next Steps

23. There are short, medium and longer term actions that could assist in the request made by Councillor Zerny to provide greater environmental protection for natural features on development sites and the Committee are asked to consider the two recommendations for this.

Appendices:

Appendix A: Enforcing the Hedgerow Regulations

Appendix 1: Criteria for Identifying Important Hedgerows

Appendix 2: Permitted Work and Exemptions

Background Papers

None

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Appendix A

Enforcing The Hedgerow Regulations

1.0 Introduction

- 1.1 Hedgerows play a valuable role in preserving the structure and character of the rural landscape as well as having historic and ecological importance. However, an agricultural landscape with large fields and few hedgerows is more productive than one with smaller fields bounded by hedgerows. This meant that towards the end of the 20th century some parts of the country had seen large scale removal of hedgerows with no controls in place as agriculture became more and more industrial.
- 1.2 In response Parliament enacted the Hedgerow Regulations in 1997 to provide a system to protect countryside hedges and control their removal.
- 1.3 Essentially, all eligible hedgerows are “protected” by the regulations and those that meet certain criteria are “important” and, usually, may not be removed. The regulations provide a notification process whereby local planning authorities can allow the removal of hedgerows if it is appropriate to do so.
- 1.4 The regulations also make it an offence to remove a hedgerow, or part of a hedgerow, without authorisation and in such cases empower LPAs to require a hedgerow to be replaced.

Overview of the Legislative Provisions

2.0 Protected hedgerows

- 2.1 A hedgerow is protected if it is more than 20m long (or less but join another hedge at each end) and if is on or next to:
 - land used for agriculture or forestry
 - land used for breeding or keeping horses, ponies or donkeys
 - common land
 - a site of special scientific interest
 - a local or national nature reserve
- 2.3 A hedgerow is **not** protected if it is in, or marks the boundary of, a private garden even if it also borders one of the above locations.
- 2.4 If a landowner, or other relevant person, wishes to remove a protected hedgerow they must serve the LPA with a hedgerow removal notice. The LPA then has 42 days in which to decide if the hedgerow is “important” and if it should be allowed to be removed.

3.0 Important hedgerows

- 3.1 A hedgerow is an important hedgerow if it is more than 30 years old and meets at least one of a number of criteria relating to historic and archaeological features or wildlife and ecology value. The full list of criteria is given at appendix 1.
- 3.2 If the LPA finds that the hedgerow is not important then it may issue a hedgerow removal notice allowing it to be removed. A removal notice is valid for 2 years from the date of issue.
- 3.3 If the LPA finds that the hedgerow is important then it will usually issue a hedgerow retention notice. If there are circumstances to justify the removal of an important hedgerow then the LPA may issue a removal notice. There is a right of appeal against a retention notice.

4.0 Exemptions

- 4.1 There are a number of exemptions that allow the removal of hedgerows without the need for approval from the LPA. These are mainly for emergency, health and safety reasons e.g. for the purposes of national defence, to prevent the spread of plant pests but also practical reasons such as permitting utility companies to prevent obstruction of power lines or a landowner to create a replacement access.
- 4.2 This last-mentioned exemption requires the landowner to fill in the existing gap by planting a new hedge within 8 months.
- 4.3 Hedgerows that are required to be removed in order to carry out development that has been granted planning permission do not require any notification.
- 4.4 Development carried out under permitted development does not normally allow the removal of hedgerows without notification.
- 4.5 A full list of exemptions is given at appendix 2.

5.0 Offences

- 5.1 It is an offence to intentionally or recklessly remove a hedgerow in contravention of the regulations or to cause or permit another person to do so.
- 5.2 The maximum penalty used to be a fine of £5,000 in the Magistrates Court and an unlimited fine at Crown Court but recent legislation has abolished the upper maximum in the Magistrates Court. This means that in either court there is now no limit on the fine that may be imposed.
- 5.3 The Regulations also specify that in determining the level of any fine the court should take into account any financial benefit that the defendant has accrued, or is likely to have accrued, in carrying out the offence.

5.4 It is also an offence to fail to fill an existing access gap in a hedgerow when a new access is created with a maximum fine of £1,000 in the Magistrates Court.

5.5 Some legitimate hedgerow management techniques such as coppicing (where trees and bushes are cut down to regrow from almost ground level stumps) and laying (where stems, branches and trunks are cut part way through and laid down on top of each other) can result in drastic changes to the appearance of a hedgerow. Such maintenance is part and parcel of good land management and does not amount to the removal of a hedgerow and no permission is required from the LPA. This differs from the regime of tree protection where even routine management is prohibited without approval from the LPA.

6.0 Replacement hedgerows

6.1 If it appears to an LPA that a hedgerow has been removed in contravention of the regulations it may serve the owner with a hedgerow replacement notice. The notice may specify the species and position of trees and shrubs to be planted and set out a period in which to comply.

6.2 It is not an offence to fail to comply with a replacement notice but the LPA may enter the land and carry out the planting itself and recover its costs in doing so from the landowner.

6.3 Any hedgerow planted in response to a replacement notice is “important” within the meaning of the regulations for a period of 30 years, when it automatically acquires protected status.

7.0 Injunctions

7.1 The LPA may apply to either the County Court or the High Court for an injunction if they consider it necessary to restrain an offence under the regulations.

8.0 Rights of entry

8.1 LPAs may authorise officers to enter land with or without a warrant for purposes relating to the regulations.

9.0 Other controls

9.1 All nesting birds are protected by law and it is an offence to damage or disturb them or their nest sites. Other species such as badgers, dormice and great crested newts are sometimes found living in hedgerows and they are also protected by law.

9.2 Individual trees within a hedgerow may be subject to preservation orders and therefore benefit from their own protection for cutting or felling. Depending on the circumstances, a felling license may also be required to remove trees in a hedgerow.

- 9.3 There are also restrictions on hedgerow management under the Common Agricultural Policy schemes and Countryside Stewardship agreements that enforced by the Rural Payments Agency. Nothing in these regimes overrides the Hedgerow Regulations.

The Local Position

10.0 Responding to hedgerow removal notices

- 10.1 Field sizes in Central Bedfordshire tend to be smaller than in other parts of the Eastern Region such as Norfolk and the Fens so we have quite a high proportion of hedgerows that fall under the provisions of the regulations.
- 10.2 Hedgerow removal notices are determined by Tree Officers with specialist input from ecology and historic environmental information officers. Hedgerows that are important by reason of historic or archaeological features can usually be identified as such from a desktop assessment but ecology and species diversity importance would usually require a site visit.

11.0 Responding to breaches of the Hedgerow Regulations

- 11.1 Breaches of the Hedgerow Regulations are dealt with by the planning enforcement team.
- 11.2 The enforcement module in Acolaid does not distinguish between tree and hedgerow cases so it is not possible to provide an accurate figure of caseload. However, it is fairly low with the team receiving perhaps 4 to 6 hedgerow cases per year. Some of these will result in no breach being confirmed; either because the hedgerow is not protected or has simply been subject to robust management.
- 11.3 Those cases that are identified as constituting an offence are dealt with in accordance with the adopted enforcement plan with decisions on prosecution and replacement notices being made on a case by case basis. Recent changes to the way the team operates means that it is now able to be more agile and robust in response to contraventions of the Hedgerow Regulations.
- 11.4 Council officers have recently met with police officers from Operation Sentinel who deal predominantly with rural crime issues, including wildlife offences such as disturbance to nesting birds for which council officers have no powers to deal with. However, there are frequent links between the type of work that planning

enforcement officers are involved with and other offences and we will continue to work with other agencies as appropriate.

- 11.5 There is no local list of protected hedgerows but aerial photography does, in the main, give us sufficient information to identify them. There is no proactive monitoring of hedgerows and we would usually rely on information from the community to tell us if a hedgerow has been removed.
- 11.6 In prosecuting an offence, the evidence must meet the higher threshold, i.e. beyond reasonable doubt, rather than on the balance of probabilities. Establishing that an offence has been committed is usually straightforward, once legitimate management has been eliminated, but it can sometimes be difficult to identify the person that actually carried out the work, especially if they were a contractor. However, it is also an offence to cause or permit the removal of a protected hedgerow and the owner of the land would find it very hard to justify a defence that the work was undertaken without their instruction or approval and they may be charged accordingly.

APPENDIX 1

CRITERIA FOR IDENTIFYING IMPORTANT HEDGEROWS

Archaeology and history

1. The hedgerow marks the boundary, or part of the boundary, of at least one historic parish or township; and for this purpose “historic” means existing before 1850.
2. The hedgerow incorporates an archaeological feature which is—
 - (a) included in the schedule of monuments compiled by the Secretary of State under section 1 (schedule of monuments) of the Ancient Monuments and Archaeological Areas Act 1979; or
 - (b) recorded at the relevant date in a Sites and Monuments Record.
3. The hedgerow—
 - (a) is situated wholly or partly within an archaeological site included or recorded as mentioned in paragraph 2 or on land adjacent to and associated with such a site; and
 - (b) is associated with any monument or feature on that site.
4. The hedgerow—

(a) marks the boundary of a pre-1600 AD estate or manor recorded at the relevant date in a Sites and Monuments Record or in a document held at that date at a Record Office; or

(b) is visibly related to any building or other feature of such an estate or manor.

5. The hedgerow—

(a) is recorded in a document held at the relevant date at a Record Office as an integral part of a field system pre-dating the Inclosure Acts; or

(b) is part of, or visibly related to, any building or other feature associated with such a system, and that system—

(i) is substantially complete; or

(ii) is of a pattern which is recorded in a document prepared before the relevant date by a local planning authority, within the meaning of the 1990 Act, for the purposes of development control within the authority's area, as a key landscape characteristic.

Wildlife and landscape

6.—(1) The hedgerow—

(a) contains species listed or categorised as mentioned in sub-paragraph (3); or

(b) is referred to in a record held immediately before the relevant date by a biological record centre maintained by, or on behalf of, a local authority within the meaning of the Local Government Act 1972, and in a form recognised by the Nature Conservancy Council for England, the Countryside Council for Wales or the Joint Nature Conservation Committee, as having contained any such species—

(i) in the case of animals and birds, subject to sub-paragraph (2), within the period of five years immediately before the relevant date.

(ii) in the case of plants, subject to sub-paragraph (2), within the period of ten years immediately before the relevant date;

(2) Where more than one record referable to the period of five or, as the case may be, ten years before the relevant date is held by a particular biological record centre, and the more (or most) recent record does not satisfy the criterion specified in sub-paragraph (1)(b), the criterion is not satisfied (notwithstanding that an earlier record satisfies it).

(3) The species referred to in sub-paragraph (1) are those—

(a) listed in Part I (protection at all times) of Schedule 1 (birds which are protected by special penalties), Schedule 5 (animals which are protected) or Schedule 8 (plants which are protected) to the Wildlife and Countryside Act 1981;

(b) categorised as a declining breeder (category 3) in “Red Data Birds in Britain” Batten LA, Bibby CJ, Clement P, Elliott GD and Porter RF (Eds.), published in 1990 for the Nature Conservancy Council and the Royal Society for the Protection of Birds (ISBN 0 85661 056 9); or

(c) categorised as “endangered”, “extinct”, “rare” or “vulnerable” in Britain in a document mentioned in sub-paragraph (4).

(4) The documents referred to in sub-paragraph (3)(c) are—

(a) of the books known as the British Red Data Books:

1. “Vascular Plants” Perring FH and Farrell L, 2nd Edition, published in 1983 for the Royal Society for Nature Conservation (ISBN 0 902484 04 4);

2. “Insects” Shirt DB (Ed.), published in 1987 for the Nature Conservancy Council (ISBN 0 86139 380 5); and

3. “Invertebrates other than insects” Bratton JH (Ed.), published in 1991 for the Joint Nature Conservation Committee (ISBN 1 873701 00 4); and

(b) of the books known as the Red Data Books of Britain and Ireland:

“Stoneworts” Stewart NF and Church JM, published in 1992 for the Joint Nature Conservation Committee (ISBN 1 873701 24 1).

7.—(1) Subject to sub-paragraph (2), the hedgerow includes—

(a) at least 7 woody species;

(b) at least 6 woody species, and has associated with it at least 3 of the features specified in sub-paragraph (4);

(c) at least 6 woody species, including one of the following—

black-poplar tree (*Populus nigra* ssp *betulifolia*);

large-leaved lime (*Tilia platyphyllos*);

small-leaved lime (*Tilia cordata*);

wild service-tree (*Sorbus torminalis*); or

(d) at least 5 woody species and has associated with it at least 4 of the features specified in sub-paragraph (4), and the number of woody species in a hedgerow shall be ascertained in accordance with sub-paragraph (3).

(2) Where the hedgerow in question is situated wholly or partly in the county (as constituted on 1st April 1997) of the City of Kingston upon Hull, Cumbria, Darlington, Durham, East Riding of Yorkshire, Hartlepool, Lancashire, Middlesbrough, North East Lincolnshire, North

Lincolnshire, Northumberland, North Yorkshire, Redcar and Cleveland, Stockton-on-Tees, Tyne and Wear, West Yorkshire or York, the number of woody species mentioned in paragraphs (a) to (d) of sub-paragraph (1) is to be treated as reduced by one.

(3) For the purposes of sub-paragraph (1) (and those of paragraph 8(b))—

(a) where the length of the hedgerow does not exceed 30 metres, count the number of woody species present in the hedgerow;

(b) where the length of the hedgerow exceeds 30 metres, but does not exceed 100 metres, count the number of woody species present in the central stretch of 30 metres;

(c) where the length of the hedgerow exceeds 100 metres, but does not exceed 200 metres, count the number of woody species present in the central stretch of 30 metres within each half of the hedgerow and divide the aggregate by two;

(d) where the length of the hedgerow exceeds 200 metres, count the number of woody species present in the central stretch of 30 metres within each third of the hedgerow and divide the aggregate by three.

(4) The features referred to in sub-paragraph (1)(b) and (d) (which include those referred to in paragraph 8(b)) are—

(a) a bank or wall which supports the hedgerow along at least one half of its length;

(b) gaps which in aggregate do not exceed 10% of the length of the hedgerow;

(c) where the length of the hedgerow does not exceed 50 metres, at least one standard tree;

(d) where the length of the hedgerow exceeds 50 metres but does not exceed 100 metres, at least 2 standard trees;

(e) where the length of the hedgerow exceeds 100 metres, such number of standard trees (within any part of its length) as would when averaged over its total length amount to at least one for each 50 metres;

(f) at least 3 woodland species within one metre, in any direction, of the outermost edges of the hedgerow;

(g) a ditch along at least one half of the length of the hedgerow;

(h) connections scoring 4 points or more in accordance with sub-paragraph (5);

(i) a parallel hedge within 15 metres of the hedgerow.

(5) For the purposes of sub-paragraph (4)(h) a connection with another hedgerow scores one point and a connection with a pond or a woodland in which the majority of trees are broad-

leaved trees scores 2 points; and a hedgerow is connected with something not only if it meets it but also if it has a point within 10 metres of it and would meet it if the line of the hedgerow continued.

8. The hedgerow—

(a) is adjacent to a bridleway or footpath, within the meaning of the Highways Act 1980, a road used as a public path, within the meaning of section 54 (duty to reclassify roads used as public paths) of the Wildlife and Countryside Act 1981, or a byway open to all traffic, within the meaning of Part III of the Wildlife and Countryside Act 1981, and

(b) includes at least 4 woody species, ascertained in accordance with paragraph 7(3) and at least 2 of the features specified in paragraph 7(4)(a) to (g).

APPENDIX 2

PERMITTED WORK & EXEMPTIONS

(1) The removal of any hedgerow to which these Regulations apply is permitted if it is required—

(a) for making a new opening in substitution for an existing opening which gives access to land, but subject to paragraph (2);

(b) for obtaining temporary access to any land in order to give assistance in an emergency;

(c) for obtaining access to land where another means of access is not available or is available only at disproportionate cost;

(d) for the purposes of national defence;

(e) for carrying out development for which planning permission has been granted or is deemed to have been granted, except development for which permission is granted by article 3 of the Town and Country Planning General Permitted Development Order 1995 in respect of development of any of the descriptions contained in Schedule 2 to that

Order other than Parts 11 (development under local or private Acts or orders) and 30 (toll road facilities);

(f) for carrying out, pursuant to, or under, the Land Drainage Act 1991, the Water Resources Act 1991 or the Environment Act 1995, work for the purpose of flood defence or land drainage;

(g) for preventing the spread of, or ensuring the eradication of—

(i) any plant pest, within the meaning of the Plant Health (Great Britain) Order 1993, in respect of which any action is being, or is to be, taken under Article 22 or 23 of that Order, or

(ii) any tree pest, within the meaning of the Plant Health (Forestry) (Great Britain) Order 1993, in respect of which any action is being, or is to be, taken under Article 21 or 22 of that Order;

(h) for the carrying out by the Secretary of State of his functions in respect of any highway for which he is the highway authority or in relation to which, by virtue of section 4(2) of the Highways Act 1980, he has the same powers under that Act as the local highway authority;

(i) for carrying out any felling, lopping or cutting back required or permitted as a consequence of any notice given or order made under paragraph 9 of Schedule 4 to the Electricity Act 1989 (felling, lopping or cutting back to prevent obstruction of or interference with electric lines and plant or to prevent danger); or

(j) for the proper management of the hedgerow.

(2) Where the removal of a hedgerow to which these Regulations apply is permitted by these Regulations only by paragraph (1)(a), the person removing it shall fill the existing opening by planting a hedge within 8 months of the making of the new opening.

(3) The fact that work is permitted under these Regulations does not affect any prohibition or restriction imposed by or under any other enactment or by any agreement.

Town Centre benchmarking Central Bedfordshire

Sustainable Communities Overview and Scrutiny Committee 21st November 2019

Background

- In early Summer, Regeneration & Business commissioned People & Places Insight to undertake a benchmarking of all our main town centres.
- The purpose of this project was to compare town centre performance against other centres in the UK and within central Bedfordshire, providing data to identify local priorities, and inform future project development.
- Assessment encompassed car parking, retail, and town centre market audits.
- Individual reports for each town centre have been produced.
- Presentations of data in each local area to local Town Council's, businesses, residents and other stakeholders currently underway.
- Surveys with businesses and town centre users generated over 4000 responses.

Performance comparison within central Bedfordshire and versus national small town's average

CENTRAL BEDFORDSHIRE BENCHMARKING

RETAIL OFFER

| TOWN | VACANCY RATE % |
|------------------|----------------|
| Ampthill | 7 |
| Arlesey | 15 |
| Biggleswade | 10 |
| Flitwick | 7 |
| Houghton Regis | 5 |
| Leighton Buzzard | 8 |
| Potton | 7 |
| Sandy | 10 |
| Shefford | 11 |
| Stotfold | 5 |
| NATIONAL | 9 |

Note: Dunstable surveys to be carried out in January, as part of existing benchmarking programme commissioned with DTC. CBC wide comparison to be updated at this point.

CENTRAL BEDFORDSHIRE BENCHMARKING

FOOTFALL

| TOWN | BUSY DAY | QUIET DAY |
|------------------|------------|------------|
| Amphill | 58 | 53 |
| Arlesey | 28 | 14 |
| Biggleswade | 219 | 185 |
| Flitwick | 61 | 62 |
| Houghton Regis | 83 | 64 |
| Leighton Buzzard | 325 | 187 |
| Potton | 37 | 35 |
| Sandy | 62 | 46 |
| Shefford | 95 | 53 |
| Stotfold | 18 | 11 |
| NATIONAL | 110 | 105 |

CENTRAL BEDFORDSHIRE BENCHMARKING

CAR PARKING

| TOWN | BUSY DAY % VACANT | QUIET DAY % VACANT |
|------------------|-------------------|--------------------|
| Ampthill | 13 | 29 |
| Arlesey | 31 | 25 |
| Biggleswade | 27 | 35 |
| Flitwick | 26 | 30 |
| Houghton Regis | 29 | 47 |
| Leighton Buzzard | 13 | 25 |
| Potton | 22 | 13 |
| Sandy | 20 | 21 |
| Shefford | 17 | 31 |
| Stotfold | 38 | 40 |
| NATIONAL | 27 | 33 |

CENTRAL BEDFORDSHIRE BENCHMARKING

SURVEY RESPONSES

| TOWN | |
|------------------------------|-------|
| Ampthill | 437 |
| Arlesey | 88 |
| Biggleswade | 679 |
| Flitwick | 548 |
| Houghton Regis | 266 |
| Leighton Buzzard | 1148 |
| Potton | 128 |
| Sandy | 386 |
| Shefford | 342 |
| Stotfold | 82 |
| Typical 'good' response rate | 2-300 |

CENTRAL BEDFORDSHIRE BENCHMARKING

TOWN CENTRE USER SPEND

| TOWN | Over £20.00 % |
|------------------|---------------|
| Amphill | 52 |
| Arlesey | 8 |
| Biggleswade | 44 |
| Flitwick | 52 |
| Houghton Regis | 34 |
| Leighton Buzzard | 40 |
| Potton | 17 |
| Sandy | 14 |
| Shefford | 41 |
| Stotfold | 17 |
| NATIONAL | 32 |

CENTRAL BEDFORDSHIRE BENCHMARKING

TOWN CENTRE USERS

| TOWN | POSITIVE % | NEGATIVE % |
|------------------|------------------------|---------------------------------|
| Ampthill | Physical Appearance 76 | Car Parking 66 |
| Arlesey | Access to Services 30 | Retail Offer 62 |
| Biggleswade | Cafes/ Restaurants 61 | Car Parking 63 |
| Flitwick | Access to Services 52 | Physical Appearance 75 |
| Houghton Regis | Access to Services 51 | Physical Appearance 70 |
| Leighton Buzzard | Access to Services 75 | Car Parking/ Retail Offer 46 |
| Potton | Physical Appearance 88 | Car Parking/ Transport Links 38 |
| Sandy | Access to Services 41 | Retail Offer 71 |
| Shefford | Physical Appearance 54 | Leisure Facilities 51 |
| Stotfold | Access to Services 35 | Retail Offer 54 |

CENTRAL BEDFORDSHIRE BENCHMARKING

VISIT RECOMMENDATION

| TOWN | Yes % |
|------------------|-----------|
| Ampthill | 84 |
| Arlesey | 13 |
| Biggleswade | 59 |
| Flitwick | 19 |
| Houghton Regis | 33 |
| Leighton Buzzard | 64 |
| Potton | 91 |
| Sandy | 31 |
| Shefford | 64 |
| Stotfold | 24 |
| NATIONAL | 72 |

Town centre user views Shoppers and businesses

Amphill – town centre user views

Challenges

- *Lack of parking for business employees. parking restrictions in Waitrose for locals wishing to shop and stay longer in the town*

Improvements you would like to see:

- *Reduce the amount of charity shops. try to attract some niche chains for the younger people.*
- *A better market with more variety. less coffee shops and more restaurants/variety*
- *More parking*
- *Direct very large HGV away from Amphill. There are 'no loading' restrictions in Amphill centre that are largely ignored that create morning or afternoon traffic issues.*

Arlesey – town centre user views

Challenges:

- There is just a High Street with limited shops. Arlesey could do with a variety of different shops.
- *Centre doesn't even have a car park for shoppers*

Improvements you would like to see:

- *A proper town centre, with a supermarket*

Biggleswade – town centre user views

Challenges:

- *Car parking - not enough longer stay parking to encourage visitors to spend time in the shops and restaurants*
- *Competition with the out of town retail park.*
- *Range of facilities offered: Lots of food outlets and two pharmacies. However, beyond that there is very little else on offer. For clothing, the edge-of-town retail park is available.*

Improvements you would like to see:

- *Free and extended parking*
- *Improvements to the retail offer*

Flitwick – town centre user views

Challenges

- *Division of the town centre by the rail line*
- *Regeneration of the town centre has to unify/link both sides of the centre*
- *Tesco dominates so all other retail forced out*

Improvements you would like to see:

- *Build more retail units*
- *Attract a competitor for Tesco*

Houghton Regis – town centre user views

Challenges

- *Lack of retail offer*
- *Anti social behaviour*

Improvements you would like to see:

- *Increase the choice of shops. Create a proper High Street with shops on the High Street.*
- *Incentivise retailers to come to Bedford Square*
- *Community Policing, zero tolerance to petty crime*

Leighton Buzzard – town centre user views

Challenges

- *Making it a safer environment*
- *Lack of a large retailer, competition from the internet*

Improvements you would like to see:

- *Free and safer parking*

Potton – town centre user views

Challenges

- *Car parking and encouraging more people to shop local*
- *Lack of a large retailer, competition from the internet*

Improvements you would like to see:

- *Free parking*
- *Create Chamber of Trade*
- *The markets seasonally are great and bring people into the town.*
- *Having a cafe/community baker would be great to bring people into town.*

Sandy – town centre user views

Challenges

- *Footfall, lack of external visitors*
- *Empty units- the local banks closing had a huge impact on sales.*

Improvements you would like to see:

- *Fill empty retail units*
- *More events*
- *Reduce rates*
- *Provide a choice of shops*

Shefford – town centre user views

Challenges

- *No curb appeal to high street shops Lack of variety in shops on high street.*
- *Lack of useful shops . No clothes shops , shoe shops , greengrocers, butchers etc.*

Improvements you would like to see:

- *Reduce shop rental to invite a further variety of shops to the town and do not introduce major shopping chains/ food outlets which will impact on the small businesses.*
- *Ensure that new shop fronts are in keeping with the nice ones that are already here*

Stotfold – town centre user views

Challenges

- *A Parade of shops does not make up a town centre.*
- *The CO-OP faces away from this parade of shops and looks removed from it. The remaining shops are scattered too far apart to even look like a town centre.*

Improvements you would like to see:

- *Push to get more diversity of shops/services (esp. independents).*

Issues to consider

1. Does your perception of your local centre match the survey findings?
2. Do any of the results make you think about the centre's opportunities or challenges differently?
3. Do we currently have the right priorities?
4. As people's habits change, how we can future proof our town centres to be successful, when they are no longer used primarily for retail shopping?
5. Beyond existing programmes, in practical terms, how should the Council support our town centres in the future?

Next steps

- Work with CBC ward members, Town Council's and local partners to better understand benchmarking findings, identifying causes to issues raised.
- Identify opportunities to address performance issues including improving existing activities by all relevant organisation's and partners.
- Disseminate benchmarking findings within central Bedfordshire to help services plan town centre relevant activities more effectively
- Review and track performance including interventions by revisiting benchmarking in 18 months

Central Bedfordshire Council

**Sustainable Communities Overview and Scrutiny
Committee**

21 November 2019

Work Programme and Executive Forward Plan

Responsible Director(s): Charles Warboys, Director of Resources,
(Charles.warboys@centralbedfordshire.gov.uk)

Public

Purpose of this report

The report provides Members with details of the currently drafted committee work programme and the latest Executive Forward Plan.

RECOMMENDATIONS

The Committee is asked to:

1. Consider and approve the work programme attached, subject to any further amendments it may wish to make;
2. Consider the Executive Forward Plan; and
3. Consider whether it wishes to suggest any further items for the work programme and/or establish any enquiries to assist it in reviewing specific items.

Overview and Scrutiny Work Programme

1. The committee work programme aims to provide a balance of those items on which the Executive would be grateful for a steer and those items that the overview and scrutiny Committee (OSC) has proactively requested to receive.
2. The Overview and Scrutiny Coordination Panel has suggested that the following be prioritised in the work programme: -
 - activity led by the OSCs and residents;
 - policy development activity, through the exploration of proposals and principles at the earliest opportunity of commencement of strategy development;
3. In considering which items should be added to the work programme Members are encouraged to minimise duplication, focus on those items that have been requested by residents and the committee and to focus on those items where Members can add value.
4. The committee is also recommended to ensure it creates time for Members to consider matters outside of formal meetings as well as providing the opportunity to brief Members informally on some topics. This might mean considering whether all of the formal meetings included in the schedule are necessary.

Overview and Scrutiny Task Forces

5. In addition to consideration of the work programme, Members may also wish to consider how each item will be reviewed, i.e. by the Committee itself (over one or a number of Committee meetings) or by establishing a Member Task Force to review an item in greater depth and report back its findings.

Executive Forward Plan

6. Listed below are those items relating specifically to this Committee's terms of reference contained in the latest version of the Executive Forward Plan. The full Executive Forward Plan can be viewed on the Council's website at the link at the end of this report.

| Item | Indicative Executive Meeting date |
|----------------------------------|-----------------------------------|
| Planning Enforcement Plan Review | 03 December 2019 |
| Public Realm Grant Scheme | 07 January 2020 |
| Public Space Protection Order | 07 April 2020 |

Council Priorities

7. The work programme of the Overview and Scrutiny Committee will contribute indirectly to all 5 Council priorities.

Corporate Implications

8. There are no direct corporate implications arising from this report, the implications of proposals will be details in full in each report submitted to the Committee.

Legal Implications

9. There are no direct legal implications arising from this report, the implications of proposals will be details in full in each report submitted to the Committee.

Financial and Risk Implications

10. There are no direct financial implications or risks arising from this report, the implications of proposals will be details in full in each report submitted to the Committee.

Equalities Implications

11. In determining what to add to their work programmes the overview and scrutiny committees should consider items that are important to all residents.
12. There are no direct equality implications or risks arising from this report, the implications of proposals will be details in full in each report submitted to the Committee.

Conclusion and next Steps

13. The Committee is requested to consider the work programme and the indicated outcomes at **appendix A** and to amend or add to it as necessary.
14. Additionally, Members are requested to consider whether there are any matters where they may wish to establish a task force to assist the committee in its work. This will allow officers to plan accordingly but will not preclude further items being added during the course of the year if Members so wish and capacity exists.

Appendices

Appendix A: OSC work programme

Background Papers

Executive Forward Plan (can be viewed at any time on the Council's website) at the following link:-

https://www.centralbedfordshire.gov.uk/info/31/meetings/641/calendar_of_meetings_and_forward_plan/2

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Appendix A – SC OSC Work Programme 2019/20

| OSC Date | Report Title | Outcomes we are seeking to achieve |
|---------------------------|------------------------------------|--|
| Thursday, 23 January 2020 | Community Safety Update | The impact of additional funding and resources on the service |
| Thursday, 23 January 2020 | Local Authority scrutiny of SEMLEP | That SEMLEP be invited to provide details of current and future projects which would impact Central Bedfordshire |
| TBC possibly 23 January | Culture and Library Peer Review | That a presentation be delivered to Members detailing outline proposals for a culture and library peer review. |
| Thursday, 12 March 2020 | Public space protection order | The report will follow on from the 12 week public consultation and will propose the new Public Space Protection Orders for Central Bedfordshire. |