

# Central Bedfordshire Council

Executive

13 October 2020

## Environmental Code of Practice

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

**Responsible Director(s):** Marcel Coiffait, Director of Place and Communities  
([marcel.coiffait@centralbedfordshire.gov.uk](mailto:marcel.coiffait@centralbedfordshire.gov.uk))

This report relates to a decision that is **Non-Key**

---

### Purpose of this report

The report asks the Executive to endorse the Environmental Code of Practice as technical planning guidance. The Code seeks to minimise the impact of development on natural features and secure their integration into development rather than removal.

### RECOMMENDATIONS

The Executive is asked to:

1. **endorse the Environmental Code of Practice as technical planning guidance for Development Management purposes; and**
2. **delegated authority to the Director of Place and Communities, in consultation with the Executive Member for Planning and Regeneration to make any minor amendments to the Environmental Code of Practice.**

### Overview and Scrutiny Comments/Recommendations

1. The Environmental Code of Practice for Developers and Contractors was presented to Overview and Scrutiny on 3 September 2020 and was supported subject to minor wording changes which have been made.

## Issues

### Overview

2. A range of legislative provisions exist in order to provide environmental protection for natural features including trees, hedgerows and nesting birds. In addition, conditions attached to planning permissions can also provide protection for any features deemed worthy of retention but these are only enforceable once the development has begun. In some instances natural features which are not protected by legislation can be removed prior to planning stages or post planning permission stage but prior to planning conditions taking effect.
3. As a short-term solution to address this issue, an Environmental Protection Code for Developers and Contractors has been produced. This follows a similar format to the [Construction Code of Practice for developers and contractors](#) which was endorsed by Executive as technical planning guidance in 2019.
4. Whilst the existence of a Code will not guarantee environmental protection for natural features or replace existing powers provided to the Council under existing legislation, an Environmental Protection Code for Developers and Contractors would 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;

It would therefore be a proactive tool which would be promoted by Officers during pre-application discussions and the developer's agreement to comply with the Code would be sought in the event of any planning application.

### Provisions of the Code

5. The Environmental Code of Practice is appended to this report. The aim of the Code is to set out the Council's expectations of developers and contractors to ensure that they follow best practice with regards environmental protection and that they adopt an approach which sees the integration of natural features into developments rather than their removal.
6. The Code of Practice will form technical guidance for the authority and will be published on the Council's website. It will be promoted by planning officers as part of pre-application discussions, Planning Performance Agreements, and during the consideration of planning applications. The Code would apply to all application proposals other than householder developments, as they do not generally create significant impacts on natural features.

7. For major commercial and residential developments developers will be required to confirm they will comply with the Code, and it will be included as part of any S.106 planning obligation. For non-major developments compliance with the Code will be secured by planning condition, as such applications do not generally require S.106 obligations. For applications determined by Development Management Committee, reports would confirm the agreement or otherwise of the applicant to comply with the Code and include any previous instances of non-compliance by the developer. These factors will be considerations in the determination of applications. Any past breaches of the code may result in additional conditions and/or planning obligations to prevent the loss of natural features and strengthen natural features.
8. The Council's Compliance Officers will provide the main role in monitoring the provisions of the Code. The Code requires developer to provide the Compliance Officers with key contact details prior to works commencing on site so that there is a clear communication route should any non-compliance with Code be reported. The focus would be on evidence collection with a view to consideration of any formal action.
9. The Code requires that developers and contractors only remove natural features which have been agreed for removal following the commencement of development. If however the permission is never implemented the obligations or conditions would remain dormant and could never be enforced. Should the applicant attempt to implement the planning permission, having removed the features shown to be retained, they would be required to remedy the situation and the Council would have to consider the most appropriate course of action in the circumstances. The Code also requires compliance with existing legislation and industry best practice and guidance for environmental protection and details these.

## **Engagement**

10. Views have been sought on the Code from some members of the Council's Infrastructure and Delivery Board, representing the local and regional development industry. Only one response has been received to date which comments that the Code simply reflects current good practice, is unremarkable and the fact it needs to be codified for some is slightly troubling. They encourage landscape features, where practical, to be incorporated into publicly maintained areas to prevent plot purchasers removing them.

## **Reason/s for decision**

11. If the Code is not endorsed for development management purposes and given current and future levels of growth in Central Bedfordshire, it is likely that there may be a greater loss of natural features that could have been successfully integrated into new developments.
12. By introducing the Code of Practice, it will set out clearly the authority's expectations in terms of protection of natural features and their successful integration within development, and also encourage new lines of communication between contractors, the Council and local communities.

## **Council Priorities**

13. The recommendations to improve environmental protection directly meet the Council's priority of Enhancing Central Bedfordshire as set out in the [Five Year Plan](#).

## **Corporate Implications**

14. No additional corporate implications to those outlined below.

## **Legal Implications**

15. Under the Hedgerows Regulations 1997 and the Town and Country Planning Act 1990 (as amended)('the Act') the Council have specific powers to deal with the removal of Protected and Important hedgerows and protected trees. The Code of Practice will complement these existing powers by preventing/minimizing the removal of existing natural features and thereby causing environmental harm.
16. Compliance with this Code of Practice may form part of planning obligations agreed between the Council and developers and secured under Section 106 of the Act. Planning obligations are required for most major developments and they secure contributions to local infrastructure and control the way in which developments are implemented.
17. Section 106 planning obligations are formal commitments entered into and are legal deeds between a landowner (and subsequent owners) and the local authority. If the obligation is not complied with, it is enforceable against the original signatory and any subsequent owner. Enforcement could be by injunction or by other enforcement routes.

## **Financial and Risk Implications**

18. There are no financial implications arising directly from this report. However should it 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.
19. 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 the risk of environmental harm.

## **Equalities Implications**

20. 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.

21. An Environmental Protection Code could help to ensure that the impacts of development on the environment are minimized for all residents.
22. The Social Care Institute for Excellence has highlighted that the natural environment plays an important part in promoting and maintaining health and wellbeing and that it can also aid recovery from ill health:
- Contact with nature in shared areas can increase social interaction and mental wellbeing.
  - Nature has been shown to reduce aggressive behaviour with different groups, including people suffering from Alzheimer's disease. Even short walks and looking at images of nature can reduce negative feelings, such as anxiety and anger, and increase positive feelings.
  - Some studies have suggested that the higher the quality and accessibility of the green space, the more likely it is to encourage high levels of walking and other physical activity.
  - Access to green space is also associated with key determinants of inequalities in health. For example, a study in the Lancet suggested that income-related inequality in health would be less pronounced in populations with greater exposure to green space.

## **Sustainability Implications**

23. The Code would help the Council to deliver the key actions and targets outlined in the Central Bedfordshire Sustainability Plan (2020-2030) by requiring developers to act sustainably - protecting and retaining existing natural features on their sites and incorporating these as far as possible within new developments. These actions, secured through the Code, will preserve and enhance biodiversity and create attractive and healthy environments for new residents. This supports delivery of Section 1.3 (Leveraging Strategic planning) Section 3.4 (Natural Environment & Water Resilience) and Section 4.1 (Supporting Sustainable Communities) of the Plan.

## **Conclusion and next Steps**

24. If the recommendations are agreed by the Executive, a developers compliance with the Code will be a material consideration in the determination of planning applications.

### **Appendices:**

Appendix A - Environmental Code of Practice

### **Background Papers**

None

**Report author: Jennie Selley, Head of Planning Delivery**

**jennie.selley@centralbedfordshire.gov.uk**