



Tree and Hedgerow Code of Practice

Herefordshire Council

Published version v1 June 2024: 03/06/2024

Introduction

This code of practice applies to trees and hedgerows on Council owned or managed land; and other trees and hedgerows over which the Council has legal controls or a statutory duty of care.

Trees and hedgerows are the often-unacknowledged backdrop to the landscape of the County of Herefordshire, not only in the countryside but also in its towns and villages, where they form important local landmarks and landscape features, creating the 'sense of place' that helps to characterise the county. They enhance the setting of important buildings, of village greens and open spaces and there are many individual trees across the county that possess special cultural or historical associations. Trees and hedgerows are an essential habitat for wildlife and help address climate change and improve air quality. Hedgerows are vital delineating boundaries of fields and parcels of land creating the distinctive meandering patterns of the Herefordshire landscape and are often formed by a very locally distinctive mix of species.

The Council recognises its natural assets and seeks to reinforce their protection through its:

- The Council Plan
- Core Strategy (local plan)
- Green Blue Infrastructure Strategy
- Climate Change and Ecological Emergency
- Local Transport Plan
- Highway Maintenance Plan

Herefordshire Council in this Tree & Hedgerow Code of Practice has set out policies and guidance that recognise the vital roles trees and hedgerows play as key natural asset of the county.

Definitions

'Tree' in this document can relate to any significant woody shrub, single or group of trees – including, but not limited to trees in woodlands, copses, coppices, hedgerow trees, highway side trees, trees in parklands, open spaces, tree collections, and fruit trees in any situation.

'Hedgerows' or, length of woody shrubs managed to form a linear feature, are covered as a specific section of their own in this code of practice.

The Role of the Council

To maintain and improve the quality of life, both for residents and for visitors to the county, Herefordshire Council is committed to promoting good management of trees and hedgerows. The Council has both a managerial and a regulatory role, with legal responsibilities not only to maintain its own trees and hedgerows but also to fulfil its other legislative obligations.

The management of its own trees is underpinned by ongoing monitoring through regular tree surveys of land under its management. These inspections ensure that Council-owned trees are in a satisfactory condition by identifying potential problems so they can be remedied in a timely, appropriate, and cost-effective manner.

The Council will also act in response to significant hazards identified within its tree stock by members of the public.

In addition to maintaining its own tree and hedgerow stock, the Council also has a regulatory role to secure the protection of important trees at risk on private and commercial sites through Tree Preservation Orders (TPOs) and controlling works to trees within designated conservation areas. The Council is the regulatory authority for the Hedgerow Regulations 1997. It also has a duty to ensure that trees and hedgerows are fully recognised as material considerations within the planning process and that trees and hedgerows on development sites are adequately protected from harm during construction.

Trees and hedgerows play a part in the lives of all residents and visitors to the county by shaping its environment and form. Our plans and strategies prioritise well designed and implemented green & blue infrastructure and the trees as well as the wider benefits they can deliver:

- climate change adaptation
- noise and air pollution
- flood alleviation
- wildlife habitats and connectivity
- health and wellbeing
- traffic calming
- landscape resilience
- carbon sequestration

Overarching Aims and Objectives

- Preserve and increase tree canopy cover across the county.
- To support the principle of the right tree, in the right place.
- Lead by example; implementing all current best practice across the Council's tree planting and tree and hedgerow management activities.
- Ensure all trees and hedgerows receive appropriate aftercare and management to ensure longevity.
- Provide clear code of practice within the Core Strategy (local plan) and supplementary guidance on protection, preservation and enhancement of tree and hedgerow stock on development sites.

- Working to reduce trees lost across the county and to collaborate with partners so that they can contribute to tree planting, tree care, climate adaptation and the desire to increase the tree cover of the county.
- Recognising the significance of hedgerows and promoting their planting, restoration, and appropriate management.
- Respond in a proactive manner to all tree related enquiries and incidents within the responsibility of the Council.

Tree and Hedgerow Code of Practice Statements

The following code of practice statements constitute the Herefordshire Council Tree and Hedgerow Code of Practice and have been written to give clear and unambiguous statements to ensure the Council meets its legal, health & safety obligations and duty of care whilst not exposing the Council to any undue liability. The Council will endeavour to implement these practices where it is the relevant or competent authority for such matters, including its function as a Planning Authority.

All appointed or contracted partners, contractors and agents are required to comply with this Herefordshire Council Tree Code of Practice.

Tree Care and Management of Council-owned Trees

The Council is responsible for trees and hedgerows growing on Council owned or managed land; and other trees and hedgerows over which the Council has legal controls or a statutory duty of care. These include trees on public open spaces, highway trees, trees around Council buildings and those on some areas of Common Land.

The Council has no powers to become involved with trees under private ownership except where they cause an immediate hazard to users of Council owned land, open space, buildings, or highways.

Schools are normally responsible for the management of their own grounds and tree maintenance and all reports should be made directly to the school or college wherever possible.

Code of practice 1 – Tree Surveying

The Council will implement a proactive, cyclical inspection and tree care programme to achieve maximum safe lifecycles for all trees it is responsible for. The frequency of inspection and the maintenance works conducted by the Council will be determined based on the location and condition of the tree; and adhere to the Council's duty of care and legal responsibilities.

Code of practice 2 – Tree Removal

Herefordshire Council will retain and maintain its existing healthy tree stock. Removal will only be considered as last resort for the following reason(s):

- Dead

- Proven to be in terminal decline-dying and/or dangerous
- Considered by the Council or one of its arboriculturists to be causing serious damage to property; be an immediate risk to property or of causing harm to people; or to be an inappropriate species for the location.

Or:

- Under a legal or public safety obligation e.g. Highways Act 1980; to remove or removal is part of an agreed tree management programme or improvement plan.

Code of practice 3 – Trees, no grounds for removal

Within the Council's duty of care and legal responsibilities, the following reasons will NOT constitute grounds for the pruning or removal of trees by the Council:

- Interference with any received or transmitted electronic signal (e.g. satellite dish, TV aerial or radio signal)
- Leaf Fall
- Obstruction of view or casting shade, including of solar panels
- Problems caused by any wildlife using trees - such as insects, aphids ('honeydew'), or birds
- Problems associated with fruit or seeds
- Problems associated with pollen
- To facilitate private CCTV cameras
- Where the tree is perceived to be too large
- Healthy mature trees will not be removed to create space to plant new trees
- Someone is willing to pay for the removal and replacement of a tree

In cases where there is physical disruption to private pavements, kerbs, garden paths and walls an engineering solution will need to be considered on a case-by-case basis.

Code of practice 4 – Trees, overhanging branches

The Council has no legal obligation to prune branches overhanging boundaries; it does however have powers under the Highways Act to serve notice on landowners to manage trees/branches identified as being a hazard to users of the public highway (including Public Rights of Way).

Common law rights enable property owners to prune branches back to a boundary, although it must be noted that this common law right does not extend to trees protected by tree preservation orders or growing within a conservation area.

Where property owners exercise their common law rights by undertaking or commissioning the pruning of Council owned trees that overhang their properties it is expected that all such work will be carried out in accordance with the current edition of BS:3998, "Tree Work-Recommendations" by a suitably qualified arboriculturist. The Council may require the property owner to provide evidence of the qualifications and insurance cover of their contractor.

Unless otherwise formally agreed, all material created must be disposed of by the resident or their contractors and should not normally be left on any Council land.

Code of practice 5 – Trees, damage to property

Where trees owned or managed by the Council are directly in contact with a property (e.g. dwelling, garage, boundary wall) we will only carry out work as far as it is necessary to remove the nuisance.

Trees reported as touching private property will be assessed by an approved contractor and an appropriate course of action decided upon. This will normally take the form of pruning to create clearances sufficient to ensure that the nuisance will not recur for a period of at least three years. Trees causing such nuisance will only be felled if they are clearly dead, dying or at imminent risk of failure, causing harm to property or people.

Code of practice 6 – Insurance Claims

To protect the Council's interests and process claims efficiently the Council's insurance team will manage all claims for subsidence or other matters against its trees in accordance with the Joint Mitigation Protocol. <https://www.ltoa.org.uk/resources/joint-mitigation-protocol>

Tree Planting and Establishment

Code of practice 7 – Tree management and maintenance

The Council will seek to maintain its own tree stock in good condition and endeavour to increase tree canopy cover within our urban areas through replacement planting and, where appropriate and practicable, through new planting.

Code of practice 8 – Right Tree for the Right Place

Tree planting on Council land will prioritise larger growing trees with multiple benefits wherever practical, scaling down to smaller trees and shrubs where larger trees are clearly not suitable.

A diversity of species will be planted to accommodate climate change and pest & pathogen resilience in the Council's tree stock. The Council will have the final say in respect of all tree planting occurring on land it owns, manages, or adopts.

Code of practice 9 – Replacement Trees

For every Council tree with a stem diameter greater than 15cm removed a minimum of three new trees (based on BS:3936 - 'Standard' tree or an equivalent number of smaller trees) will be planted and maintained through establishment and formative years and then thereafter maintained as necessary for their natural life. The replacements will be planted in the same or similar locations. Should these existing locations be deemed not viable alternative

locations will be identified on land within the Council's responsibility or on other land with secured tenure within the locality.

Code of practice 10 – Replacing Trees

Any Council tree that must be removed due to claim mitigation (e.g. proven subsidence) will be replaced adhering to the mitigation agreement and with consideration of the previous tree replacement code of practice 8.

Code of practice 11 – Trees, working in partnership

Herefordshire Council will work proactively to engage with landowners, community groups, Parish, and Town Councils in support of projects increasing the county's tree cover or sustainable management of woodlands and 'trees outside of woodlands'. This includes the Council supporting actions to secure funding for tree planting and tree management Projects.

Code of practice 12 – Trees, biosecurity, and local provenance

Wherever possible all trees planted by the Council will be locally sourced, propagated and raised in the county or region and be of traceable local provenance and be compliant with the Forestry Commission Biosecure Procurement Standards. The Council will endeavour to support suppliers wishing to achieve these requirements.

Hedgerows

Code of practice 13 – Hedgerow management and maintenance

The frequency and nature of hedgerow management conducted by the Council will be determined based on the location and condition of the hedgerow; and to adhere to the Council's duty of care and legal responsibilities. The Council's hedgerow management will always demonstrate national best practice and support the Council's declared climate change and ecological emergency.

The council recognises that the majority of hedgerows alongside highways and Public Rights of Ways are in private ownership and the responsibility of the landowner. The council can serve notice on a hedgerow owner to undertake management in cases of obstruction/dangerous overhanging growth.

Code of practice 14 – Hedgerow Replacement

The Council will implement an 'avoid-mitigate-compensate' hierarchy approach to hedgerow removal; and ensure that any of its hedgerows having to be removed are replaced as a minimum 'length for length' with new species rich hedgerow. The replacement will be planted in the same or similar locations. Should these existing locations be deemed not viable,

alternative locations will be identified on land within the Council's responsibility or on other land with secured tenure within the locality.

Code of practice 15 – Locally characteristic hedgerows

Wherever achievable all new hedgerows planted on land owned, managed or to be adopted by the Council will be species rich, using locally characteristic species, consider climate change and pest & pathogen resilience. Except where demonstrated as unviable, all new lengths of hedgerows will have at least one new 'standard' hedgerow tree planted in every 20m length. All planting will be managed and maintained from establishment through to maturity. Thorny or spiky species will not be planted adjacent to any highway, cycleway, pavement footpath for formal public open space or play area.

Code of practice 16 – Hedgerows, working in partnership

Herefordshire Council will work proactively to engage with landowners, community groups, Parish, and Town Councils in support of projects increasing the length of hedgerow across the county and their traditional and sustainable management. This includes the Council supporting actions to secure funding for hedge planting and in support of traditional hedgerow management practices like hedge laying.

Code of practice 17 – Hedgerows, biosecurity, and local provenance

Wherever possible all hedgerow planted by the Council will be locally sourced, propagated and raised in the county or region and be of traceable local provenance and be compliant with the Forestry Commission Biosecure Procurement Standards. The Council will endeavour to support suppliers wishing to achieve these requirements.

Code of practice 18 – Hedgerow and Tree netting

The council will not undertake, support, or endorse the netting of hedgerows as a wildlife prevention method. The council will ensure compliance with the Wildlife & Countryside Act during all tree and hedgerow operations.

Planning and Regulatory Functions

It is noted that there are other regulations overseen by regulatory authorities besides the Council pertaining to Trees, Woodlands and Hedgerows including:

- *Forestry Commission – Felling Licences and Woodland Grant Schemes*
- *Rural Payment Agency – Basic Farm Payments, Countryside Stewardship and ELMS*
- *Environment Agency – riparian trees*
- *Natural England – statutory nature conservation sites e.g. Sites of Special Scientific Interest*

The Council has no regulatory function in respect of actual disturbance or harm to wildlife however it is caused; this is a potential criminal offence and should be reported directly to the police.

Code of practice 19 – Council Development

Highway improvement and other Council development projects will be used as an opportunity to secure retention of existing trees and hedgerows and prioritise new tree and hedgerow planting opportunities. Tree and hedgerow replacement code of practices 9 and 14 will apply in all but exceptional circumstances.

Code of practice 20 – Public Highways

New highways that are to be offered for adoption by the Council through new development must have tree cover as part of their core design, including consideration of tree-lined avenues either side of the carriageway or along central reservations, as required by the National Planning Policy Framework. Compliance with other national and local design guidance must be demonstrated. The designed installation of trees (e.g. tree pits and root barriers) must clearly demonstrate the longevity and health of the tree has been fully considered and that the final scheme will deliver a canopy cover of at least 30% after 10 years across the adopted streetscape. With exception in areas of specific highway safety requirements, the retention of existing hedgerows, reinstatement of traditional boundary hedgerows, and the inclusion of new hedgerows is strongly encouraged. Where the council adopts new or additional trees or hedgerows a relevant commuted sum to cover future management will be applied.

Code of practice 21 – Planning Code of practice

As part of the Council's Local Plan and supporting Planning Guidance a 'Tree and Hedgerow Replacement, Protection and Management Strategy' pertaining to all development applications in the county will be developed and implemented with a presumption against any removal; or where removal is required ensuring there is no net loss of trees or hedgerows due to development. To ensure climate change resilience, carbon sequestration and air quality value of trees and hedgerows within development sites are considered.

Code of practice 22 – Compensation for removal or loss due to development

The Council will seek compensation from any organisation or individual requesting removal of any of its tree stock or hedgerow in relation to an approved planning application. The financial compensation value of trees will be determined as calculated by Capital Asset Valuation of Amenity Trees (CAVAT). Hedgerow compensation will be based on the full cost recovery of replacement hedgerow planting as identified under code of practice 14 and allowing for a subsequent 30-year management and maintenance period in line with the requirements of the Environment Act.

Code of practice 23 – Compensation for removal or damage

The Council will seek to investigate, and where determined in the 'public interest' prosecute any organisation or individual that has removed or caused significant damage to any Council tree or hedgerow, or where a breach of any regulatory function of the Council may have occurred. Unless otherwise defined in statutory regulations, the financial compensation for the value of trees will be determined as calculated by Capital Asset Valuation of Amenity Trees (CAVAT). Hedgerow compensation will be based on the full cost recovery of replacement hedgerow planting as identified under code of practice 14 and allowing for a subsequent thirty-year management and maintenance period in line with the requirements of the Environment Act.

Code of practice 24 – Replacement trees, Tree Preservation Orders and Conservation areas

Except in exceptional circumstances all statutory requirements to secure replacement tree planting for an approved removal of trees subject to a Tree Preservation Order; or through the enforcement of a breach of a Tree Preservation Order or Conservation area will be secured by the Council on a like for like basis as supported by those statutory regulations.

Code of practice 25 – Full cost recovery

Where appropriate, the Council will seek full cost recovery of any expenses it incurs to mitigate the impact of private trees from the relevant land-tree owner, including any works it undertakes as part of its statutory powers and responsibilities, including legislation afforded as the Highways Authority under the Highways Act and use of Section 154 notices.

Code of practice 26 – Best practice and compliance

All companies, organisations or operatives working on highways, land, trees, or hedgerows owned by or under the responsibility of the Council must demonstrate that they are adhering to all relevant national guidance, standards, and regulations in respect of all elements of the works they are undertaking. This adherence should be fully referenced in their relevant working methods and project specifications. For example, the National Joint Utilities Group standards. The NJUG is the trade association for national and local utility companies and their contractors and provides detailed guidance on best practice during all street works and other activities. <http://streetworks.org.uk/good-practice-guidance/>

Other policies

Code of practice 27 – Communication and records

The Council will ensure all required and relevant notifications, applications and records in respect of works to its own trees and hedgerows and its statutory regulatory functions are kept up to date and, as necessary published in a timely manner to its website or other means of communication, to make them available to local residents and interested parties.

Code of practice 28 – Biodiversity and nature conservation

Within its duties and obligations and as relevant to specific trees at specific locations, the Council will endeavour to retain standing and fallen deadwood to provide biodiversity habitat; establish wildlife corridors and encourage invertebrate and fungal activity. Deadwood will also be used to provide access to ‘wild play’ features or support the installation of pieces of public art.

The council will ensure all its activities and operations can demonstrate compliance with all statutory environmental, ecological and nature regulations, guidance and accepted best practice. Examples include Conservation of Habitat and Species Regulations, Wildlife & Countryside Act, Environment Act, Countryside and Rights of Way Act, Natural England ‘standing advice’, Bat Conservation Trust Bat Survey Guidelines.

Code of practice 29 – Horizon scanning and compliance checking

The Council will remain vigilant to changes in national guidance on tree pests and pathogens and as necessary develop and adopt threat specific Action Plans for the Council’s tree and hedgerow stock and considering its duty of care, legal obligations, and statutory regulatory functions. An example of which is the Herefordshire Council Ash Dieback Action Plan being developed that will form an appendix to this Tree & Hedgerow Code of Practice.

Examples of relevant organisations, reference and supporting documents

References current at time of compilation (October 2023) but additional and replacement or updated versions may subsequently apply.

Environment Act (2021) and associated regulations

<https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>

Highways Act 1980 <https://www.legislation.gov.uk/ukpga/1980/66/contents>

Town & Country Planning Act and associated Regulations

<https://www.legislation.gov.uk/ukpga/1990/8/contents>

Hedgerow Regulations (1997) <https://www.legislation.gov.uk/uksi/1997/1160/contents>

The Management of Hedgerows (England) Regulations 2024

<https://www.legislation.gov.uk/uksi/2024/680/made>

Conservation of Habitats and Species Regulations

<https://www.legislation.gov.uk/uksi/2017/1012/contents>

Wildlife & Countryside Act <https://www.legislation.gov.uk/ukpga/1981/69/contents>

National Planning Code of practice Framework

https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf

National Design Guides <https://www.gov.uk/government/publications/national-design-guide>

BS 3998 – Tree Work Recommendations <https://knowledge.bsigroup.com/products/tree-work-recommendations?version=standard>

BS 5837 – Trees in relation to design, demolition and construction <https://knowledge.bsigroup.com/products/trees-in-relation-to-design-demolition-and-construction-recommendations?version=standard>

BS8545 – Trees from nursery to establishment in the landscape <https://knowledge.bsigroup.com/products/trees-from-nursery-to-independence-in-the-landscape-recommendations?version=standard>

Manual for Streets

https://assets.publishing.service.gov.uk/media/6270d4838fa8f57a360f8b91/Essex_Manual_for_Streets_Redacted.pdf

Joint Mitigation Protocol <https://www.ltoa.org.uk/resources/joint-mitigation-protocol>

National Tree Safety Group <https://ntsgroup.org.uk/>

National Joint Utilities Group (NJUG) <http://streetworks.org.uk/>

Forestry Commission <https://www.gov.uk/government/organisations/forestry-commission>

Environment Agency <https://www.gov.uk/government/organisations/environment-agency>

Natural England <https://www.gov.uk/government/organisations/natural-england>

Bat Conservation Trust <https://www.bats.org.uk/>

The Tree Council <https://treecouncil.org.uk/>

Woodland Trust <https://www.woodlandtrust.org.uk/>

National House Building Standards Council <https://nhbc-standards.co.uk/>

Capital Asset Valuation of Amenity Trees (CAVAT) <https://www.ltoa.org.uk/resources/cavat>

Trees and Design Action Group (TDAG) <https://www.tdag.org.uk/>

Herefordshire Council Core Strategy

https://www.herefordshire.gov.uk/downloads/download/123/adopted_core_strategy

Herefordshire Council Green Blue Infrastructure Strategy <https://www.herefordshire-natural-environment-map.co.uk/>

Herefordshire Council Climate Change & Ecological Emergency

<https://www.herefordshire.gov.uk/climate-2>

Herefordshire Council Sustainable Drainage Systems and Highway Design Guides

<https://www.herefordshire.gov.uk/planning-services/planning-services-1/11>

https://www.herefordshire.gov.uk/downloads/download/585/highways_and_new_development

Herefordshire Council Hedgerow Planting Guidance (draft)



HC Guidance for
planting and establish