

Council

LEADER: Cllr Gordon Hook

PORTFOLIO HOLDER: Cllr Gary Taylor

DATE: 6 June 2019

REPORT OF: Ros Eastman: Business Manager Strategic Place

SUBJECT: Notice of Motion regarding Netting of trees and hedges

PART I

RECOMMENDATION

Consider the Notice of Motion and Action that could be taken

1. THE MOTION

1.1 Council is asked to consider the following Notice of Motion:

"Ban the use of netting at development sites

Teignbridge District Council has a long and established record of environmental protection and protecting wildlife.

Council is greatly concerned by the growing trend of developers using netting over hedgerows at development sites to stop birds nesting and other wildlife using the hedges.

This is wrong and runs against the best interests of supporting and enhancing local wildlife.

We call on all developers not to use netting in Teignbridge.

Additionally, Council will urgently write to the relevant Government Ministers calling on the government to ban the use of netting at all sites with planning consent or identified in Local or emerging Local Plans."

2. BACKGROUND

Introduction

2.1 The Wildlife and Countryside Act 1981 makes it an offence if anyone intentionally:

- a) kills, injures or takes any wild bird;

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- (aa) takes, damages or destroys the nest of a wild bird included in Schedule ZA1;
- (b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- (c) takes or destroys an egg of any wild bird

2.2 It is therefore standard practice that works to trees and hedges should take place outside bird nesting season (Commonly taken as 1 March to 30 September but defined differently in various pieces of legislation / practice and guidance).

2.3 During this period, there is no automatic bar to undertaking tree or hedge works, rather an ecologist should inspect the tree or hedge and if there is an active nest in situ then the legislation would come into effect.

The National Picture

2.4 There have been a number of high profile cases in the national media recently where trees and hedges have been netted in preparation for development starting on sites.

2.5 There has also been a petition started that to 11 April 2019 had gained in excess of 300,000 signatures.

2.6 On 8 April 2019 James Brokenshire (Communities Secretary) wrote to developers (<https://www.gov.uk/government/news/protect-birds-when-building-says-james-brokenshire>) and:

“emphasised that birds are protected under the Wildlife Countryside Act 1981, and that mitigation plans will need to show how developers will avoid or manage any negative effects on protected species during their work.

During building work, it is common practice for netting to be placed over trees and hedgerows, but this can be used unnecessarily and trap wildlife.

If developers do not follow their obligations, the Secretary of State has not ruled out further action to protect our country’s valuable ecological system.”

2.7 In Response, Natural England has welcomed this restatement of the government position and highlighted that:

“It is for those who install exclusion measures such as netting to ensure the mesh size of netting is suitable for the species involved and is properly maintained to ensure that they don’t commit offences against wild birds.

Where developers or local authorities feel they have no other options but to use netting we would always advise they follow best practice, including use of appropriate material to avoid entanglement. This should also be properly maintained and monitored and use is kept to an absolute minimum, both in terms of time and area covered”

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2.8 It is clear therefore that whilst Central government and their advisers are not currently intending to completely restrict the use of netting, there is strong advice and guidance being reiterated in relation to when its use may be appropriate.

The Local Position

2.9 Officers are not aware of any instances of bird netting being used in Teignbridge by developers on sites either in readiness from imminent development proposals or earlier during the planning process.

2.10 Biodiversity, Planning and other officers have positive working relationships with developers and their advisers and rather than bird netting being used will usually introduce a combination of the following measures:

- 1) Developer designs retention of trees and hedges into the development layout.
- 2) Local Authority requires retention of trees and hedges, together with a fenced root protection zone within which no development occurs. However, there may be some that must be removed to permit an appropriate development.
- 3) Developer plans ahead and removes hedges and trees in the non-breeding season, after getting planning permission, but before development work starts. In many cases there will be sufficient time between grant of permission and commencement to do this, but perhaps not in all cases.
- 4) Developer starts work, but carefully phased to avoid the need to remove hedges/trees in the breeding season.
- 5) If retained vegetation really must be removed in the bird-breeding season (e.g. for safety reasons), it should be carefully inspected for active nests by a professional ecologist. If active nests are absent, works may proceed. If present, works must be postponed until the young have left the nest and before the birds start to lay the next clutch of eggs (this may be a very short window, e.g. a couple of days).
- 6) Developer plans even further ahead and coppices hedges and fells trees (in non-breeding season) before applying for planning permission. In most cases this will be legal, but not desirable for public or wildlife, as it may remove habitats 1+ seasons earlier than needed and that the LPA would have retained. For this reason, Tree Protection Orders are in place on our major development sites.

2.11 With this practice in place, there should be no need for netting to take place.

Conclusion

2.12 Given the risks associated with netting, for birds, dormice and other wildlife, officers would recommend against its use. In almost all cases it should be possible to avoid the need for netting by a combination of habitat retention and careful removal outside the sensitive periods. However, if exceptional cases there may be a case for use of netting provided:

- It is not installed during the bird breeding season and it may be appropriate for the LPA to approve the material.
- 'Fleece' or extremely fine-meshed net is used to minimise the risk of entanglement
- It is installed and maintained in full accordance with the best practice.

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**Cllr Taylor
Portfolio Holder**

Wards affected	All
Contact for any more information	Ros Eastman EXT 5745
Background Papers (For Part I reports only)	N/A
Key Decision	N
In Forward Plan	Y
In O&S Work Programme	N/A
Community Impact Assessment attached:	N
Appendices attached:	None