

Fivehead Parish Council.

Environment and Wildlife Legislation, including the updated Wildlife and Countryside Act 1981.

Created by Dave Braddock – July 2023.

Hedgerow Legislation (2019) – Natural England, Defra.

Next update July 2024.

A one stop place for all the community of Fivehead to check the latest legislation for hedgerow protection. This document should hopefully assist as a guide if you are a member of the public and see something going on, a farmer wanting to work on a hedgerow, a Parish Councillor replying to a planning application, a resident thinking of doing some building work and a developer considering building on a plot of land. This document does not cover every legal aspect but is intended to be used as a guideline so professional advice is needed before starting.

If you see something going on in the community that you are not sure about, The Parish Council can be contacted at:

fiveheadpc@gmail.com

Target Audience.

- Parish Council
- Members of the public
- Planning Applications
- Farming Community
- Developers
- Illegal Activity

Hedgerow Legislation.

A countryside hedgerow is a boundary line of bushes which can include trees. A hedgerow is protected, meaning you cannot remove it, if it meets the following criteria for:

- length
- location
- importance

Length.

A hedgerow is protected if it's:

- more than 20m long with gaps of 20m or less in its length
- less than 20m long, but meets another hedge at each end

Location.

A hedgerow is protected if it's on or next to:

- land used for agriculture or forestry
- land used for breeding or keeping horses, ponies, or donkeys
- common land
- a village green
- a site of special scientific interest
- a protected European site such as a special area of conservation or special protection area
- a local or national nature reserve
- land belonging to the state

A hedgerow is not protected if it's in, or marks the boundary of, a private garden.

Importance.

A hedgerow is important, and is protected, if it's at least 30 years old and meets at least one of these criteria:

- marks all or part of a parish boundary that existed before 1850
- contains an archaeological feature such as a scheduled monument
- is completely or partly in or next to an archaeological site listed on a Historic Environment Record (HER)
- marks the boundary of an estate or manor or looks to be related to any building or other feature that's part of the estate or manor that existed before 1600
- is part of a field system or looks to be related to any building or other feature associated with the field system that existed before 1845 - you can check the County Records Office for this information
- contains protected species listed in the Wildlife and Countryside Act 1981
- contains species that are endangered, vulnerable, and rare and identified in the British Red Data books.
- Includes woody species and associated features and as specified in Schedule 1, Part II Criteria, paragraph 7(1) of the Hedgerow Regulations - the number of woody species needed to meet the criteria is one less in northern counties

Applying to remove a countryside hedgerow.

You can only remove the hedgerow if:

- it's less than 30 years old
- you're the owner, tenant, or manager of the hedgerow
- you're a utility company that's eligible to remove it

Discuss your proposal to remove a hedgerow with the local planning authority (LPA) first to make sure it's legal to do so.

You'll need to provide plans relating to the hedgerow you want to remove. The local authority will explain what's needed.

How your LPA will respond.

After they have acknowledged your request, your LPA has 42 days to respond to your written notice to remove a hedgerow. In that time, they will consult the relevant parish council. The parish council might ask for more time to consider the proposal.

The LPA will issue either:

- a hedgerow retention notice - if the hedge is protected and must be kept
- a written notice giving permission to remove it in the way you've proposed

You have up to 2 years from the date of the written notice to remove the hedgerow.

You can remove the hedgerow if you do not hear back from the LPA within the 42-day period.

People can object to a removal of a hedgerow by contacting the LPA. The LPA will consider any objections they receive.

Appealing a hedgerow decision.

You can appeal if you disagree with a decision and your LPA has sent you either:

- a retention notice, saying you cannot remove a hedgerow
- a replacement notice, telling you to replace a hedgerow you've already removed

You must appeal within 28 days of the date on the LPA decision letter.

Check if you can work on a hedgerow.

Before you start working on a hedgerow, check whether there are any restrictions in place.

Nesting Birds.

You must not do any work which might harm nesting birds or destroy their nests. You'll usually find nesting birds during the main nesting and breeding season from 1 March to 31 August.

Tree protection and licensing.

Before carrying out work on hedgerow trees you must check if you need a felling licence.

The LPA will tell you if there's a tree preservation order in place or if it's in a conservation area.

Restrictions for Common Agricultural Policy (CAP) schemes.

If you get paid under the basic payment scheme, there are restrictions on managing hedgerows in the Good Agricultural and Environmental Conditions (GAEC) guidance.

If you have an Environmental Stewardship agreement or Countryside Stewardship agreement, you must also check your agreement handbook to see what restrictions there are.

Report a suspected offence against nesting birds.

Report a suspected offence against nesting wild birds or their eggs to your local police force. Ask for a wildlife crime officer to investigate for illegal activity.

Report a suspected hedgerow offence.

How you report a suspected hedgerow offence depends on whether the hedgerow is in a:

- Countryside Stewardship scheme
- Environmental Stewardship agreement scheme
- EU basic payment scheme

These schemes are known as 'Common Agricultural Policy (CAP) schemes. You can check whether the hedgerow is in a Countryside Stewardship or Environmental Stewardship agreement scheme on the Defra Magic Website.

Hedgerows in CAP schemes.

If you have concerns about the activity someone is undertaking on a hedgerow in a CAP scheme, report it to Rural Payments Agency on 03000 200 301 or email ruralpayments@defra.gov.uk

Hedgerows not in CAP schemes

If the hedgerow is not in a CAP scheme, report the activity to your local planning authority.