

Consultation on Protecting and Enhancing England's Trees and Woodlands

Policy Context

1. The Department of Environment (DEFRA) is seeking views on the UK government's proposals to introduce four new measures designed to increase transparency and accountability in the process of felling street trees and to strengthen the Forestry Commission's power to tackle illegal tree felling.

Background

2. Two of the proposed measures introduce new duties on local authorities: a duty to consult on the felling of street trees; a duty to report on tree felling and replanting; while the third suggests the production of best practice guidance to support local authorities in drawing up, consulting on and publishing a Tree and Woodland Strategy.
3. All of these proposals are seen by the government as a contribution to the protection and enhancement of the natural environment and part of the proposals to help deliver the government's 25 Year Environment Plan.
4. The consultation on a duty to consult on street tree felling is likely a response to the controversy around Sheffield City Council's Streets Ahead PFI with contractor Amey which resulted in 5,500 street trees being felled - at least half of which were on later inspection considered to have been in good health.
5. A duty to consult on the felling of street trees was detailed in the Conservative Party 2017 Manifesto so is likely to be introduced as part of a position to tighten up post Brexit environmental regulations.
6. There are likely to be cost implications because of new duty to consult. If imposed this would be a budget growth item. There is also a concern that a statutory duty to consult may discourage highway authorities from planting new street trees in an attempt to reduce future consultation costs.
7. However greater communication, transparency and dialogue with the public with regard to street trees and their benefits is welcomed.
8. The proposals to provide guidance on the production of tree and woodland strategies and to increase the Forestry Commission's powers to prosecute illegal felling is welcomed. Support from the Forestry Commission, technical guidance, research and development and increased funding for the planting and management of street trees

in such a way as to reduce maintenance costs would be welcomed.

9. A response to the consultation is required by the 28th February.

The consultation is available here

<https://consult.defra.gov.uk/forestry/protecting-trees-and-woodlands/consultation/subpage.2018-12-28.6625068454/>

For further information on background to the consultation see the Defra publication https://consult.defra.gov.uk/forestry/protecting-trees-and-woodlands/supporting_documents/treeswoodlandsconsultdocument.pdf

Consultation

10. The Cabinet Members for Environment and Transport have been consulted on the proposed response.

Alternative Options

11. Consideration has been given to some of the alternative options which are set out for some of the questions raised.

Implications of Recommended Option

12. **Resources:**

- a) **Financial Implications** – No financial implications directly arise from this report
- b) **Human Resources Implications** – No human resources implications.
- c) **Property Implications** - No property implications.

13. **Risk Management Implication** - No risks associated with the consultation.

14. **Equality and Diversity Implications** – No implications for equality and diversity

15. **Crime and Disorder Implications** – No crime implications.

16. **Health Implications** – No health implications.

17. **Sustainability Implications** – No sustainability implications

18. **Human Rights Implications** - No human rights implications.

19. **Area and Ward Implications** – No area or ward implications

Draft Response to the DEFRA Consultation on Protecting and Enhancing England's Trees and Woodlands.

5. Should a duty for local authorities to consult on the felling of street trees be introduced?

Yes – But with a proviso around concerns about the cost implications.

In the current economic climate placing an additional duty on Councils to consult on this matter has a significant cost implication which could not currently be delivered without consideration being given nationally and locally as to how the proposal could be funded.

There is a potential that creating a new duty in this matter may discourage some highway authorities from planting new street trees in an attempt to reduce future consultation costs.

Is this a duty to inform or a duty to consult? If a genuine consultation then consideration would need to be given as to how conflicting views could be arbitrated, whether there would be an appeal process and what the additional costs for this would be?

However on balance public consultation will result in greater public benefit from improved landscapes and community support of council initiatives and on that basis the proposal is welcomed.

The duty to consult would provide an opportunity for authorities to communicate with the public as to why particular trees may need to be felled and may be an opportunity potentially to engender greater support for certain projects. It may allow the Council as a whole to consider the wider impacts of tree removal.

6. Do you agree with the proposed scope of the duty to consult?

No

The consultation is limited to street trees only and not those in rural areas or urban parks. Further information is required as to the definition of street trees and whether this would just apply to trees in the curtilage of the existing or proposed adopted highway?

This would exclude trees on private streets and areas of 'private/public' realm to which the public have access with permission eg around public buildings, retail areas, privately managed housing estates, industrial estates.

Consideration should be given to include branch removal and pruning – as this can be devastating when a large volume of canopy is removed.

Consultation should be extended to other organizations eg where the users are non-residents - predominately office workers, hospital staff etc

7. Do you agree with the government's preferred approach of a closed consultation with trigger point?

No – A full consultation would be more transparent and easier to administer as the trigger (requiring 50% of respondents to disagree for a full consultation) would may be more costly and open to challenge.

8. In what circumstances do you think a tree should be exempt from the duty to consult?

In cases of immediate danger where swift action is required or where very young trees are being replaced when this work is essentially a maintenance activity.

9. Do you think it is appropriate that trees of special historic or cultural significance are subject to a more rigorous consultation process?

Yes

10. Do you agree with the criteria for designating a tree of special historic or cultural significance?

Yes

11. Are there any other categories which should be included?

In terms of landscape quality then the aesthetics and visual quality of the tree should be a significant factor for inclusion. In addition trees that are providing landscape screening or in areas where there are few trees.

In terms of 'ecosystem services' trees providing the benefits of shelter, ground stabilization or flood alleviation benefits including those in SuDS pits should be included.

Rare species eg Black Poplar or surviving Elm should be considered.

12. Do you think that the duty to consult will have any negative impacts on development?

No – in that the public consultation could result in a better outcome for the tree or the landscape around the development. The consultation could be carried out within the existing development management timescales.

13. Should consultations be done on an individual basis or in groups of trees where, for example, trees are planted in the same location?

No – in some cases considering groups of trees would simplify the

consultation and this would seem practicable. However where there are groups of trees and following consultation some are retained this would make the consultation more complicated.

14. Should a duty on local authorities to report on tree felling and planting be introduced?

Yes – although there are significant costs associated with this however which could not currently be covered by the authority at this time without additional funding.

15. Which trees would it be useful to report on?

As detailed in the scope

Felling - Local authority trees exempt from felling licenses, as a result of planning applications, as a result of interventions with Tree Preservation Orders.

Also all urban trees in the public realm – if not on local authority land this would require the owner to contact the local authority.

Planting – All urban compensatory planting (eg as a result of planning decision) other planting where the information is not captured as part of a Forestry Commission or Countryside Stewardship Woodland Creation project.

16. What information do you think local authorities could gather and hold?

As detailed – especially accurate location, species, age/size and reason for felling.

Ideally Councils would have the resources to hold an inventory of all street trees on a GIS layer including photos.

Information is also required on the type of trees planted as a large heavy standard is very different from a small fruit tree. Recording the type of tree planted will give more information on the national street trees stock. It will also give an indication if mature trees are being lost at a great rate then replacement.

We would welcome the government supporting the roll-out of the software Programme 'i-Tree Eco' nationally – *background here* - <https://www.forestresearch.gov.uk/research/i-tree-eco/>

17. How could local authorities present this information?

To be uniform across the country this would need to be agreed nationally preferably ideally with bespoke software being provided. Ideally the information would be held on a database available through a web page and via i-tree?

18. Do you agree that Tree and Woodland Strategies help local authorities and the public to manage their trees and woodlands?

Yes – however there are significant resource implications around the production and implementation of these so may not be produced if not statutorily required.

19. Would best practice guidance be sufficient for local authorities and the public?

The Authority would benefit from greater advice and support from Forestry Commission Woodland Officers. Ideally new Urban Woodland Officers could be recruited to aid councils in this role.

20. Do you agree with the suggested content for best practice guidance for Tree and Woodland Strategies?

Yes – except other themes could be added looking at the landscape benefit of trees around aesthetic quality, contribution to distinctive character and other qualities such as peacefulness and historic/woodland management characteristics.

In addition the ecosystem services not mentioned provided by trees - around ground stabilization and flood alleviation could be included along with the benefits to public health and wellbeing.

We would welcome technical guidance on how lost street trees can be practically replaced and how this could be funded. In particular we would wish to see Government supporting research and development of cost effective techniques to plant and maintain trees – potentially associated with SuDS, which do not cause future maintenance problems.

We would also welcome guidance on acceptable standards for the planting of trees on and around new developments.

Representations were made about managing the negative effects caused by statutory undertakers and whether contributions by these should be made in terms of compensation for damage.

Consideration should be given to how works and notification of works which involve trenching - positioning of new services and rationalization of network during standard replacement and repairs could be carried out in a way which is more favorable to existing and future street trees (eg grouping of services routes, eg inclusion of root protection barriers etc) and a request was made to suggest that legislation needs to go further to address the causes of tree loss and lack of opportunities to replant.

21. Do you support these measures (to increase the powers of the Forestry Commission)?

Yes – these are matters for the Forestry Commission and are broadly supported