

Protecting and enhancing England's trees and woodlands

About the District Councils' Network

The District Councils' Network (DCN) is a cross-party, member-led network of 200 district councils. We are a Special Interest Group of the Local Government Association (LGA), and provide a single voice for district councils within the Local Government Association.

District councils in England deliver 86 out of 137 essential local government services to over 22 million people - 40% of the population - and cover 68% of the country by area.

District councils have a proven track record of building better lives and stronger economies in the areas that they serve. Districts protect and enhance quality of life by safeguarding our environment, promoting public health and leisure, whilst creating attractive places to live, raise families and build a stronger economy.

District councils own and are responsible for large numbers of trees and woodlands, for example in parks and nature reserves. In some cases, they also own trees near to a street, but not physically within the highway or footpath, which might therefore be covered by proposals relating to urban street trees "planted along highways". Under their planning powers, district councils are responsible for making Tree Protection Orders (TPOs) and considering proposals to prune or remove trees subject to TPOs. They are therefore directly affected by some of the proposals in this consultation paper.

Summary

The DCN welcomes the opportunity to comment on this consultation paper.

We believe that the issues in respect of street trees covered by the consultation paper should remain matters for local determination and should not be subject to any further regulation. We do not believe that there is evidence of widespread problems which require a wholesale reform of the existing processes.

We therefore do not support the proposal for a separate consultation mechanism on felling of urban street trees. We believe the extant regime of Tree Protection Orders could be used instead to ensure that there would be public consultation on proposals to prune or remove trees that are valuable to the townscape.

If the Government proceeds with its present proposals, they will create a range of new burdens for councils which will need to be funded in accordance with the new burdens doctrine. The DCN should be consulted about any new burdens assessment.

Detailed responses

Q1. Should a duty for local authorities to consult on the felling of street trees be introduced? Please give reasons for your response.

No. We do not support the proposal for a separate consultation mechanism on felling of urban street trees. We believe Tree Protection Orders (TPOs) could be used instead to ensure that there would be public consultation on proposals to prune or remove trees that are valuable to the townscape.

DCN members feel that planning authorities should protect street trees through the TPO process and that, except in cases of immediate highway safety, highway authorities should not be able to rely upon powers in the Highways Act 1980 to justify removal of a tree protected by a TPO without submitting an application under planning legislation. Any such application would then trigger formal public consultation including consideration by a planning committee of elected members, subject to local schemes of delegation.

Not all street trees are necessarily worthy of protection and there may be good reasons, not related to highway safety, why some trees should be removed from time to time and, in some cases, why they should not be replaced.

The Government should clarify whether trees “planted along highways” or “lining the highway” means trees planted **in** the highway which will generally be in a footpath. This is important to understand the scope of the proposal on urban street trees and whether it relates only to trees that are the responsibility of the highway authority.

If the Government proceeds with its present proposals, members are concerned this will create a range of new burdens for councils which will need to be funded in accordance with the new burdens doctrine.

If the Government decides to go ahead with implementation, the District Councils' Network would welcome consultation on the new burdens assessment so that the impact on district councils can be properly identified.

Q2. Do you agree with the proposed scope of the duty to consult? Please give reasons for your response.

The DCN do not support the Government's proposal as set out above. If the proposal is implemented we would ask that it only relate to trees **planted in** the highway or on immediately adjacent land owned by the highway authority, as “lining the highway” can be ambiguous as trees can seem to line the highway but be physically located on amenity or other land that is alongside or near the highway but is not part of the highway authority's responsibilities.

Q3. Do you agree with the government’s preferred approach of a closed consultation with trigger point? Please give reasons for your response.

There is no practical difference between a “full consultation” and “closed consultation” since most councils would automatically publish notice of consultation on their websites. However a full consultation might provoke responses from people who do not live near the site of the tree. Councils are well used to weighing responses from genuinely local residents compared to those who live further afield, including outside the council’s area. We therefore suggest that, if the Government proceeds with its proposal, there should be a full consultation in every case (option A).

Adopting option A has the advantage that there would be consultation on all street trees proposed for removal and therefore it would not be necessary to distinguish trees of “special historic or cultural significance”

Q4. In what circumstances do you think a tree should be exempt from the duty to consult? Please give reasons for your response.

The complexity of having to specify the circumstances where there would be an exemption from the need to consult demonstrates why the current legal position should not be altered. If the Government nevertheless proceeds with its proposal, we agree that the circumstances set out in paragraphs 1 to 3 should be exempt from the duty to consult.

Q5. Do you think it is appropriate that trees of special historic or cultural significance are subject to a more rigorous consultation process? Do you agree with the criteria for designating a tree of special historic or cultural significance? Are there any other categories which should be included?

While it is explained that this specification would include veteran trees (a term which is recognised in Government planning policy documents, even if not precisely defined in them) or trees “linked to a person or event that is culturally or historically significant”, no further explanation or examples are given so it is unclear what the scope of the proposal actually is, due to the complexity of defining a tree as having a specific historic or cultural significance we would ask that this is not a factor if the proposal is to be implemented and that full consultation is required for all tree removal proposals.

Q6. Do you think that the duty to consult will have any negative impacts on development?

Occasionally, street trees have to be removed in order to permit a development to proceed, for example to give access to a new housing development.

As there would be full consultation with statutory bodies and local people about a planning application which considers issues including whether it is necessary to remove any trees (not just those which are subject to a TPO), the DCN believe that

current processes already in place by planning authorities are sufficient in meeting the priorities set out in this proposal without introducing an unnecessary, additional process.

Q7. Should consultations be done on an individual basis or in groups of trees where, for example, trees are planted in the same location?

We do not feel it would be practical to require separate consultation on each tree when a group of trees in the same location are proposed for removal, especially as it could mean one property falls within the radius of one tree but not another, therefore this would likely cause unnecessary administrative burdens on local authorities and confusion for residents.

Q8. Should a duty on local authorities to report on tree felling and planting be introduced? Please explain the reasons for your answer.

We do not believe that the information collected would be meaningful at any level, and this proposal goes much wider than street trees therefore we do not support the introduction of this additional duty. It is not apparent that councils would have all the information that is suggested. For example, where there is no TPO in place and a tree is removed other than as a result of a planning application, a council might have no knowledge of the tree's removal as there is no obligation to report such removal of it. Likewise councils may hold no information about new trees planted, such as in a new orchard, as again there is no obligation to report them.

If the obligation of reporting on all trees in all district areas is to be introduced, the majority of members would require additional resources to deliver this requirement, in particular staffing, therefore this must be considered as part of the new burdens doctrine.

Q9. Which trees would it be useful to report on? Please explain the reason for your answer.

Q10. What information do you think local authorities could gather and hold? Please explain the reasons for your answer.

Q11. How could local authorities present this information? Should national government play a role in collating and managing information?

We strongly oppose the proposal to introduce a reporting requirement as set out in our answer to question 8.

Q12. Do you agree that Tree and Woodland Strategies help local authorities and the public to manage their trees and woodlands? Would best practice guidance be sufficient for local authorities and the public? Please give reasons for your response.

Q13. Do you agree with the suggested content for best practice guidance for Tree and Woodland Strategies? Please give reasons for your response.

We would welcome guidance on best practice however we feel it should be a matter for local discretion as to whether or not a council wishes to develop a tree and woodland strategy, unless this additional burden is fully considered and funded through new burdens funding.

Q14. Do you support these measures?

Q15. Do you think any other measures are necessary to combat illegal tree felling?

We do not object to the proposal of raising fines to prevent illegal tree felling and believe this will act as a good deterrent.