

Consultation on Protecting and Enhancing England's Trees and Woodlands

The Institute of Chartered Foresters (ICF) is the Royal Chartered body for foresters and arboriculturists in the UK. ICF regulates standards of entry to the profession; doing so by the provision of services and support to its members; guidance to professionals in other sectors; information to the general public; and educational advice and training to students and tree professionals seeking to develop their careers in the forestry and arboricultural industry. ICF works to foster a greater public awareness and understanding of the tree professions in order to serve a variety of commercial, recreational, environmental and scientific interests.

The Institute's 1,850 members are required to uphold the integrity and reputation of the profession of forestry and arboriculture and to safeguard the public interest in matters of safety and health and otherwise and are bound by a code of conduct.

Context and scope

The Institute supports the view in the Ministerial forward that 'Trees are a critical component of the country's green infrastructure network, and a precious natural asset which we must protect for future generations'. In order to be able to deliver this ambition, and maintain a healthy urban tree stock and all the benefits that this brings, it is important to ensure sustainable management is carried out. We believe that this is best achieved by following the professional guidance delivered by experienced tree professionals.

We understand this consultation is about communicating the reasons for tree removal or retention to local residents in time for them to feed their views into the decision making process. We welcome this as an opportunity to establish Tree Strategies and embrace the involvement of local communities in this process. This is also an opportunity for local authorities to be given the funding and support to provide the tools required by tree professionals such as Tree Officers, to continue to manage and expand the urban forest.

In this context, we have summarised our views below.

1. Consider the greater use of TPO's to protect important green infrastructure
2. Dead trees, when made safe can provide a crucial habitat for invertebrates and other important wildlife.
3. Make the management and retention of ancient, heritage and veteran trees a legal requirement unless valid and substantiated reasons for removal can be provided.
4. Encourage local authorities to engage with community groups to increase tree planting on local authority-controlled land and streets.

5. The proposed changes to the Forest Act 1967 are welcomed and worthy of further debate.
6. We should work towards strengthening and supporting the role of the local authority tree officers to provide expertise in managing the local authority's tree stock on public land and provide consultation within the planning system. Formalise the requirement for BS5837 reports to accompany planning applications.
7. Increase data collection and monitoring of the existing tree stock to benefit current and future management plans.
8. Street trees are very important to neighbourhoods and people. Local initiatives for sponsoring, caring for and planting additional street trees should be encouraged.

The 'duty to consult' is a requirement of the UK Forestry Standard and applies to tree felling in "woodland" settings. It would be logical to introduce a parallel process that applies within the urban realm. Essential to any "duty to consult" is access to appropriate professional and technical advice to competently explain the proposals that are being presented to the public. It would be important that any "appropriate" process is designed to use professional and technical experience wisely.

The process must be careful not to negate the need for tree professionals to be employed within any local authority whose professional experience and knowledge could be undermined if their decisions are dismissed by public opinion. In addition, consultation on this scale will require a large amount of additional administrative work for each and every local authority adding further unnecessary burden to an already stretched resource. It is likely any changes implemented would need to be introduced alongside increased funding to local authorities to support those changes.

Tree and Woodland Strategies could be helpful, but a tree policy may be more appropriate. Once agreed, these policies provide delegated authority for directly employed or sub-contracted tree, woodland or planning officers with a remit for tree management or not, (because the policy is applicable to all employees or contractors), to inform their decision making combined with evidence and their own experience.

Providing the appropriate funding to ensure that every local authority in the country has at least one tree professional employed and has the necessary infrastructure in place to be able to record and map every tree under their responsibility is the best mechanism to maintaining and enhancing the public urban forest. Implementing this would then enable clear, transparent statistical data to be produced from every local authority to build a national picture which can then feed in to a national tree strategy.

A way to ensure local authorities employ tree professionals to oversee tree management within their individual designations is to make the role of an operational tree officer statutory (those managing local authority tree stock, **not** a role related to planning decisions). As part of the Town and Country Planning Act, there is a statutory duty for each local authority to employ a person to comment on planning decisions related to trees. There is currently no

statutory obligation for a local authority to employ an individual to oversee tree management for trees that the local authority are responsible for.

We welcome the opportunity to establish Tree Strategies and Policies and embrace public consultation of those. Public involvement in such consultations has the potential to engender a public interest in their 'Green Infrastructure' and value urban trees which can only be a good thing. We look forward to working with policy makers to develop robust systems to maintain and enhance the urban forest of England and we offer the establishment of an Institute working group to advise on this. We welcome and look forward to further discussions.

The Institute's point of contact is Dr Rob Hawkins, rob.hawkins@charteredforesters.org

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

Yes (with caveats)

- Where large scale tree removals are planned as part of a tree management contract, consultation is an appropriate course of action. The process by which this is done needs careful consideration, the current methodology suggested is not appropriate.

We suggest that consultation could be done through an appropriate Tree and Woodland Strategy / Policy which would then be required to be followed (as discussed in Consultation Question 12). Such a strategy would lay out the principles that the local authority would apply to its management of trees and might highlight those circumstances where more detailed consultation would take place prior to commencement of works. Such an approach might lead to detailed consultation on 10–15% of an annual tree management programme.

- Single tree removal is usually based on disease or damage and is a technical decision by a professional arboriculturist – these removals should be part of a suite of exemptions as suggested in Question 4.
- Liability would need to be determined if a recommendation made by a professional was overturned by public consultation and led to failure of a tree causing damage to property or people

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

Maybe

The scope on who is to be consulted and how this will be measured is unclear. The definition of a 'Street tree' is not adequately defined, any ambiguity in this regard must be rectified in the first instance. The 'Urban' setting must also be defined more precisely. The definition appears to be a reaction to specific recent cases of tree felling and should not be extended to all street trees without a clear understanding of what is meant by 'street tree' and 'trees in the urban realm'.

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

No

It is unclear how the percentage of respondents will be determined. A closed consultation should be letters posted to immediate addresses and contained to those number of units that respond back.

Any consultation system that is introduced should be introduced in a controlled pilot. The advice of relevant professionals on the scope and nature of the proposed consultation mechanism must be taken on board. Only with the backing of professionals will any consultation system be effective.

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

On the whole the definitions of exemptions from the duty to consult are well defined and the Institute supports them. Some additional notes and observations are made below.

A tree should be exempt when it is being managed by professionals working to a management plan, especially if that management plan is part of a Tree and Woodland Strategy that has been consulted upon (See Questions 1 and 12).

Dead trees, when made safe can provide a crucial habitat for invertebrates and other important wildlife.

Planning approved – trees which are being removed as part of a wider re-development scheme will have already have been agreed as part of the planning process. Including them in this process would be an unnecessary repetition.

Subsidence and damage to buildings is not in the proposed exemption list. Failure to remove these trees could leave a local authority at risk of litigation and financial penalty. They may find themselves having to pay for under pinning etc. and it is also likely to cause conflict between members of the community.

Young or newly planted trees which failed to established – the definition of 'within the last 15 years' as stated in the document is not in line with other tree related legislation. Using a definition of 'having a stem diameter of 15cm or less' would be more fitting and bring it in line with other regulations.

5. 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?

If the remit of this consultation were expanded to other trees in the public realm, then yes. However, the criteria of what would be considered significant is not set out here and would need to be clarified before this is put in place.

It is a good idea to protect significant or historical trees, and where street trees fall into this category, should be protected.

Management plans should identify special trees.

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

Yes

It is inevitable with limited resources that tree officers will find it difficult to respond timeously to complex development site applications.

The imposition of a duty to consult on street tree removals is a repetition of work carried out in the planning process. It could be used by people in disagreement to an approved planning development to raise more objections by objecting to removal of street trees in addition to the planning process itself.

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

Although this should be carefully considered and tested as part of a pilot, consultations could be grouped if the trees are perhaps of a similar age and species or where it seems appropriate.

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

It is reasonable to expect local authorities to report on tree felling and plantings for trees that they are directly responsible for, but we question if it needs to be made a statutory duty. There must be clear parameters of what needs to be reported.

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

Street trees only and only those over 15cm diameter. This would be consistent with other proposals within this document and elsewhere. It will also negate the issues with plantings failing to become established and confusion over removals which form part of good woodland management practice if they were included in the figures.

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

Tree numbers, location, species, size (height) and reason for removal. This should be reported in a simple system to ensure consistency of reporting without a universally adopted reporting system or the resources to purchase an appropriate tree database system.

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

This should be reported annually with National government coordinating the process. Ideally it would be in the same format as the information gathered in question 10, above.

12. 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.

Yes

Tree and Woodland Strategies could be helpful, but a tree policy would be a more effective tool in caring for trees. Either way, tree officers need to be fully supported and financed. Management and maintenance, as well as renewal, can only be scheduled and budgeted via plans and schedules.

Practical guidance in the shape of pre-approved paragraphs running through all aspects of public tree management would be very useful for those Local Authorities without a policy, they could then adopt those that suited their particular Authority knowing this would comply with national approval.

There are already good examples of Tree and Woodland Strategies being implemented and some good guidance is available for their preparation. It would help if this requirement were formalised (perhaps through supplementary planning guidance) with a requirement for local authorities to appropriately resource their preparation and implementation.

The Tree Council, under the direction of Defra Tree Health, is currently rolling out a process for managing the impacts of ash die back for trees outside woods. At the heart of this process is the requirement for local authorities to prepare plans to manage the risk of widespread death/damage of ash trees due to this disease, with particular focus on road-side trees. These two initiatives need to be integrated to ensure that there is a constructive overview of tree management into the future and that Local Authorities consider the management of trees holistically including the local authority responsibilities for trees alongside the public highway including those beyond the town boundary.

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

Yes

The content is reasonable but it could be stronger and wider ranging. Not all the content will be appropriate for all local authorities and therefore it must not be prescriptive in nature. A robust tree policy and better funding would be more suitable. It would give a clear, concise framework while establishing what can and can't be done to trees in the local authority.

It is important that Local Authorities set clear principles for their tree management on which they have consulted and won public support.

14. Do you support these measures?

Yes

Providing the Forestry Commission (FC) with further powers will only be effective if they are able to enforce those powers, however any proposed measure seeking to strengthen the FC response to illegal felling is welcomed. It's worth recognising that the vast majority of felling is carried out legally but, the small percentage of illegal felling which does occur, has a significant impact, particularly when it involves trees in urban areas. There is a connection with felling ahead of planning applications or securing planning approval. Currently the FC do not always use their full authority when investigating illegal felling activities; often using restocking notices (aimed to secure the protection of the woodland area in a cost effective way) when prosecution would result in a better outcome.

Trees are pivotal in creating healthy and economically successful communities, as such, the current fine of £2,500 or twice the value of the trees felled, whichever is greater, is wholly outdated and insufficient; in the current system, timber value is the only 'value' assessed. Land value should be taken into account when development is

involved, it is often the driver for illegal felling in these cases, and current fines are no deterrent in comparison to the increase in land value once planning is granted. Other indicators of value should be factored in to the fine system such as CAVAT values and value of ecological services provided.

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

No