

Chichester District Council

Planning Committee

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Consultation on Protecting and Enhancing England's Trees and Woodlands

1. Contact

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2. Recommendation

- 2.1. Planning Committee are asked to note the contents of Defra's consultation on proposed measures to enhance England's trees and woodlands, and to endorse the proposed response.**

3. Background

- 3.1 The Department for Environment, Food and Rural Affairs (DEFRA) has published a consultation document titled 'Consultation on Protecting and Enhancing England's Trees and Woodlands'. DEFRA is seeking views on introducing "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."
- 3.2 The proposed measures would aid in facilitating the Government's 25 year plan to support the natural environment, details of which are available online at <https://www.gov.uk/government/publications/25-year-environment-plan>.
- 3.3 The consultation period runs from 30 December 2018 until 28 February 2019. A copy of the Defra consultation document can be viewed online (see weblink below under 'Background Documents').

4. Consultation question responses

- 4.1 The consultation document asks questions about proposed measures to control the felling of trees. Two of the measures would introduce new duties on local authorities; a duty to consult on the felling of street trees and a duty to consult on trees that have historic or cultural significance. A third requirement of local authorities would be to report on the felling and replanting of trees, including those lost through the granting of planning permission. The fourth

measure would result in the production of best practice guidance to support local authorities in drawing up, consulting on and publishing a Tree and Woodland Strategy, and the fifth measure would give the Forestry Commission more powers to tackle illegal tree felling and strengthen protection of wooded landscapes.

i) Measure 1: Duty to consult on felling street trees in urban areas

4.2 This measure seeks to provide the local community with an opportunity to comment on proposals to fell trees that line the highway in urban environments by carrying out a consultation exercise when a highway tree is proposed to be felled. It does not relate to trees located within parks, open spaces, or alongside highways outside of urban areas. Consideration has been given to 3 means of consultation;

- a full consultation involving letters of residents within 100m² area surrounding the tree, a site notice, online consultation and an advert in the paper
- a closed consultation involving a more targeting approach with letters send to residents (as above) and a site notice, and
- a closed consultation with a trigger point, meaning in the event 50% of respondents object to the felling of a tree a full consultation is carried out. The consultation document states that this is the preferred approach

4.3 Officers consider that whilst a consultation prior to the felling of a highway tree could be a positive step to improve engagement with the local community and to ensure valued trees are not felled without good reason, it is considered that a staggered approach to consultation, as preferred by Government, would be confusing for the community and onerous upon the local authority responsible for the highway tree. In addition, officers consider that there should be limitations to when the duty to consult is required, in a similar manner to the criteria for when works to a tree in a conservation area must be the subject of an application based on the size of the tree, to ensure that small or insignificant trees are excluded from the duty to consult.

ii) Measure 2: Duty to consult on felling of trees with historic or cultural significance

4.4 This measure relates to full consultation where a tree with historic or cultural significance is proposed to be felled. Such a tree could be a veteran tree or a tree that is linked to a person or event which is historical or cultural importance. The consultation document recognises that the local authority may not know that the tree is of historic or cultural significance until consultation is undertaken, and this would trigger the need for further

consultations. As stated above officers consider that if a duty to consult is introduced this should be simple and consistent in the interests of clear engagement with the local community and in the interests of being cost effective to undertake.

iii) Measure 3: Reporting by local authorities on the felling and planting of trees

4.5 Currently, the Forestry Commission collects data on trees felled when a felling licence is required, and any compensatory planting that takes place. However, felling licences are not required in many situations where local authorities are responsible for managing trees, including street trees, trees in parks, and trees felled as part of the planning process. The proposal is to require local authorities to report of the trees felled in these situations that are not currently reported/monitored by the Forestry Commission, including the felling of those they local authorities are indirectly responsible for (including as a result of planning permission).

4.6 Officers consider that whilst it may be feasible to report the felling of the Local Authority's own trees and the planting carried out on their own land, it would not be realistic or viable for local authority to be required to report all trees to be felled/planting outside of their direct control (provided within proposed development sites for example). This would be resource heavy, could slow down the application process and result in a significant amount of work monitoring a site following a planning permission. The onus could be placed upon the developer/land owner, however, it would likely lead to developers clearing a site of all trees prior to submitting an application to ensure that the loss of trees did not become problematic at the planning stage, which would be counterproductive.

iv) Measure 4: The introduction of tree and woodland strategies

4.7 Tree and Woodland strategies are local authority documents which set out the policy framework, and management approaches, for trees and woodlands, based on an assessment of the local authority's tree and woodland resource. They are not currently required and it is proposed that they become a requirement. Officers consider that whilst this is likely to have resource implications, they would serve a useful purpose not just in the planning process but also in the management of the Council's parks and gardens, open spaces and car parks where tree planting is important to the environment, biodiversity, health and well-being.

v) Measure 5: Forestry Commission Enforcement powers

4.8 The consultation also proposes to introduce measures that will strengthen environmental protection by giving the Forestry Commission more powers to address illegal felling. This appears to relate to protected woodlands rather than trees that are covered by a Tree Preservation Order or a tree within a Conservation Area, however this requires clarification. In principle there are no objections to strengthening the powers of the Forestry Commission.

4.9 Officer responses to the consultation questions are set out in Appendix 1.

5.0 Proposed Council response

5.1 Members are asked to endorse the proposed Council response set out in Appendix 1. Any further comments will be incorporated prior to the response being forwarded to DEFRA.

6.0 Background documents

6.1 Defra Protecting trees and woodlands (December 2018):

https://consult.defra.gov.uk/forestry/protecting-trees-and-woodlands/supporting_documents/TreeswoodlandsconsultdocumentRB.pdf

Appendix 1: Consultations responses to questions

Measure 1: Duty to consult on street trees

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

Yes. Trees are important to not only the character of an area but they also have health benefits, particularly within urban environments where pollution can be detrimental to the well-being of local residents.

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

No. The information provided within the consultation document does not make it clear what would be defined as a highway tree within an urban settlement, and therefore would be open to interpretation. Is an 'urban settlement' a town/city, or could it be a village or hamlet? This would need to be made clear.

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

No. This approach would result in confusion for the local community, and would result in greater resources being required for 2 rounds of consultation. The intention is to involve the local community and therefore a closed consultation, focussed on those most likely to be affected, with the benefit of a site notice that would be seen by others passing by who may have an interest, would be a sufficient means to consulting the local community.

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

There should be an exemption to consult for trees that are dead or dangerous and for immature trees that do not have a significant presence in the street. The criteria that determines when a tree in a conservation area requires consent to be felled, or when the subject of works, would appear sensible and consistent with existing consent regimes and would mean that small trees and shrubs would not be subject of the duty to consult.

Measure 2: Duty to consult on trees of special historic or cultural significance

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?

No. Any consultation process should be consistent and simple, and this would be at odds with this approach. Should a closed consultation be carried out and then it becomes apparent the tree is of cultural importance it will be confusing for residents to receive a further consultation, and more costly for the local authority proposing the works. Rather, those consulted should be invited to comment on the relevant considerations (ecological value, cultural or historical significance) so that these comments can be taken into account.

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

Yes, it is possible. There may be instances where highway trees need to be felled to accommodate development, i.e. the provision of a visibility splay for a new access, and consultation on felling a tree in this instance could make the process more complex and time consuming for developers.

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

A single consultation should be possible even where works are proposed to a group of trees/trees along a single street, in the same way that an application to carry out works to trees the subject of a tree preservation order can relate to a number trees; this would be the most cost effective way for local authorities to engage with the community where they initiate a programme of tree management along a street.

Measure 3: Reporting on felling and planting of trees by local authorities

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

Yes, where they are in direct the control of the trees in question, this could help ensure local authorities have a program of tree replacement and compensatory planting when their own trees are removed.

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

This should only relate to trees within the control of the local authority, not trees or planting on private land. Any such requirement should be placed on upon the owner of that land. There are other sufficient controls within the planning system to assist in safeguarding trees on private land, including tree preservation orders and consideration of national and local policy in the determination of development affecting trees.

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

- date of felling/planting
- location of tree/planting
- species/age of tree if felled
- reason for felling tree

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

Yes, there would need to be a set pro-forma to ensure consistency across England, and the data could form part of a quarterly return uploaded via a portal.

Measure 4: Tree and Woodland Strategies

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.

Yes.

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

Yes.

Enforcement powers

Q14. Do you support these measures?

The consultation does not make it clear if these measures only relate to woodlands, rather than highway trees or trees within development sites for example. If these measures relate to woodland then the measures are supported.

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

No comment to make.