



RTPI Cymru

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e-mail response sent to: planconsultations-g@gov.wales

Dear Sir/Madam,

Response to: Preserving trees and woodlands: new regulations

The Royal Town Planning Institute (RTPI) is the largest professional body for town planners in the UK and Europe and represents around 27,000 members in over 80 countries worldwide, with approximately 1,300 members in Wales. The Institute has been shaping planning policy and raising professional standards for over 100 years and is the only body in the UK to confer Chartered status to planners, the highest professional qualification. The RTPI champions the power of planning in creating prosperous places and vibrant communities. Our ambition is to promote healthy, socially inclusive, economically, and environmentally sustainable places.

Thank you for the opportunity to respond to the above consultation. Our planning related comments are set out below. The questions which have been answered are Q1 -11, Q13 – 21, Q27 - Q28, Q30 -Q31. If you require further assistance, please contact RTPI Cymru on 020 7929 8197 or e-mail Mark Hand at walespolicy@rtpi.org.uk

Yours faithfully,

Mark Hand MRTPI
Director

Question 1. Do you agree with the lists of matters to be taken into account in paragraphs 6.5 and 6.6 of the consultation documents when making a tree preservation order or a woodland preservation order in the interests of amenity?

RTPI Cymru supports the proposal and list of matters in principle, along with the recognition that “the definition of amenity has changed over the years and now extends beyond visual amenity”.

We believe the proposal will reflect the value of many trees which do not currently fall under the current criteria. Expanding the definition of a tree beyond visual factors aligns with the Well-being of Futures Generations (Wales) Act (2015) of having a resilient and prosperous Wales.

We question whether the current title “... Preservation Order in the interests of amenity” would be better rephrased to include the word ‘biodiversity’ – therefore reading ...Preservation Order in the interests of amenity and biodiversity?

Further clarification on some ecological/ biodiversity aspects would be helpful:

Paragraph 6.5 of the consultation document:

- (a) *the age and rarity of the trees that are to be protected by the order*; Will there be a requirement that classification of ancient and veteran trees is carried out by an arborist or tree officer and there will be consistency with Planning Policy Wales?
- (c) *the contribution to biodiversity that may be expected to be made by those trees, on their own and in the context of their surroundings*: Further guidance on the term “contribution” would be helpful, e.g. does this include nectar provision, food resource for protected species, foraging habitat or roosting features for bats etc, connective habitat between other landscape features such as woodland or hedgerows.

The order should include a mechanism to specify a protected buffer area around the trees, i.e. the root protection zone) to prevent damage to the tree.

Paragraph 6.6 of the consultation document:

- *Please see comments above. In addition, c): the contribution to biodiversity should consider the presence of protected species such as dormouse within the woodland.*

The proposals are like to increase demand on Local Planning Authorities (LPAs), through an increase in number of tree and woodland preservation orders. It is therefore vital that LPAs and their supporting services are fully supported and adequately resourced if they are to provide an efficient and effective service. Recognising the strain that LPAs are under, a variety of organisations have given their support for increased planning fees to better resource planning services provided that additional income is reinvested within the planning service to provide an improved service. In relation to this, you may also be interested in our response to the Welsh Government consultation, [Promoting a resilient and high performing planning service. Please note Q17 of this consultation](#) sough views on charging a fee for applications relating to Tree Preservation Orders (TPOs) – We commented, “a modest fee should be charged to cover service delivery, noting that works to dangerous or dying trees do not need consent so would not be affected by this proposal.”

We question whether the proposals set out in this consultation will require an updated evaluation method/process?

Question 2. Do you agree with the sample tree preservation order in Annex 3 to the consultation document? Do you have any suggestions for improvements?

While the simplified template for both tree and woodland preservation orders is welcomed, there could be further clarification on what constitutes topping/lopping/cut down etc. For example, is pruning, pollarding or coppicing to manage a tree allowed without consent?

In relation to the map showing the location of trees/woodland, further clarity is required in relation to scale and detail.

Question 3. Do you agree with the sample woodland preservation order in Annex 4 to the consultation document? Do you have any suggestions for improvements?

See above, Q2. Is there a definition of a woodland as opposed to a group of trees or areas of trees?

Question 4. Do you agree with the proposed procedure for making tree and woodland preservation orders? Do you have any suggestions for improvements?

We support the proposal for separate woodland and tree preservation orders.

However, we question the need to extend the six-month time period proposed in relation to the preservation order, given the nature and context of the work required, including initial consultation, any reporting to planning committee, any surveying required etc. and this should be further considered in relation to current resource and capacity within LPAs and their supporting services, including ecology (see Q1).

Further clarification of how woodland preservation orders may interact with other ecological designations such as SINCS/Nature Reserves/SSSI/ancient woodland etc. would be helpful. For example, would any designated site automatically be subject to a preservation order?

Question 5. Do you agree with the types of works that are to be prohibited by a tree or woodland preservation order as set out in paragraph 8.3 of the consultation document? Do you have any suggestions for improvements?

8.3 refers to *“the written consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.”* Consent conditions for woodland presumably would take into account woodland management practices as part of a robust and agreed woodland management plan undertaken for the benefit of biodiversity.

In relation to conditions, we again raise concern regarding resources and capacity within LPAs and their supporting services, including ecology.

Question 6. Do you agree with the proposed exceptions relating to the removal of dead branches (Class A)? Do you have any suggestions for improvements?

Class A refers to – Dead Branches - removal of a dead branch from a living tree. We raise concerns regarding this exemption. It may only be necessary to remove dead branches if they were a risk/dangerous and therefore could be covered under Class B?

Dead branches provide biodiversity benefit for invertebrates and bat roost habitat for example. Furthermore, inclusion in the exemptions of the removal of “dead branches” that are not dangerous, is likely to be open to varying interpretations. LPA enforcement officers/tree officers are best placed to comment on the implications and/or potential consequences of such wording.

Question 7. Do you agree with the proposed exceptions relating to works to remove a risk of harm (Class B)? Do you have any suggestions for improvements?

Class B refers to - Works to avoid danger. Clarity is required regarding the scope of this exemption. We assume this is limited to instances where danger is posed– i.e. publicly accessible areas, adjacent to roads?

Does the exemption take into account the value of felled wood left in situ within a woodland to create additional habitat? If there is no risk to public, dead/dying/dangerous trees should be left in situ wherever possible. Fencing could minimise any risk.

Protected species checks should be carried out and replacement trees should always be required.

Question 8. Do you agree with the proposed exceptions relating to works to comply with statutory or other obligations (Class C)? Do you have any suggestions for improvements?

Yes

Question 9. Do you agree with the proposed exceptions relating to works by statutory undertakers and other public bodies (Class D)? Do you have any suggestions for improvements?

It is not always the case that such works are undertaken responsibly or sensitively. Therefore, there is an argument for consent to be sought for routine works that are pre-planned or relate to permitted development works, which would include new works, with the only exclusions for emergency works.

Question 10. Do you agree with the proposed exceptions relating to works necessary to implement a planning permission (Class E(1))?

Yes

Question 11: Do you agree with the proposed exceptions relating to works necessary to implement an authorisation under the Opencast Coal Act 1958 (Class E(2))?

Yes

Question 13. Do you agree with the proposed exception relating to works to fruit trees (Class F)?

Yes

Question 14. Do you consider that the regulations should define “fruit tree” so as to include “nut tree”?

Consideration needs to be given to differing instances where nut trees are grown for horticultural/ commercial reasons or as part of the woodland.

Question 15. Do you agree with the proposed exception relating to forestry operations as set out in paragraph 9.32 of the consultation document (Class G)?

In relation to Class G (1) (Forestry Operations) we would suggest a plan is required, similar to Class G (2). It is equally important to ensure that any works/plan fully consider biodiversity and are approved by an ecologist.

Question 16. In relation to the need to notify works to trees in a conservation area not protected by a preservation order, do you consider that the current exceptions are appropriate?

We assume this does not apply to small trees planted as replacement and compensation for other trees lost, and therefore should be specified.

We question whether including the reference to (10.5)(f)(b) "topping" would change the growth form of a young tree and is therefore unsuitable?

Question 17. Do you consider that the exception relating to works to small trees in conservation areas is appropriate?

See above. Equally defining what constitutes a 'small tree' could be problematic. This could unintentionally enable the removal of understorey in woodlands within a designated Conservation Area.

Question 18. Do you consider that the current consent procedures under the 1999 Regulations operate satisfactorily? Do you have any suggestions for improvements?

Yes

Question 19. Do you consider that the list of types of conditions that may be imposed on a consent are appropriate?

Yes

Question 20. Do you agree that it is inappropriate to extend an existing preservation order to protect a new tree required to be planted and a new protection order would need to be made if appropriate?

Replacement trees should be subject to a preservation order as per the trees/ woodland they are replacing. This will minimise the risk that these trees will be removed under the small tree exception.

It would be more appropriate to issue a new preservation order for any replacement tree, otherwise it would be difficult to prevent future removal of any replanted tree under an existing preservation order. This might change in the future if the process of updating/reviewing an existing TPOs were simplified.

Question 21. Do you consider that there needs to be a provision enabling a planning authority to impose a direction to secure the replacement of trees in a woodland, rather than imposing a replacement planting condition?

Tree/Enforcement/Legal officers are best placed to comment on the use of Directions and/or conditions for replacement planting.

Question 27: Do you agree with the sample tree replacement notice in Annex 5 to this Document? Do you have any suggestions for improvements?

Tree replanting notices should state optimum season for tree planting. Trees should be native, an appropriate replacement for those lost and of local provenance where possible.

Question 28. Do you agree that a replacement tree should be planted where a tree that is subject to a tree preservation order or in a conservation area is removed solely in order to remove an immediate risk of serious harm? Are you able to comment on how this requirement operates in practice?

Others will be better placed to comment on the detail of this question.

Question 30. Do you agree that regulations should contain details of notice of proposed works to trees in a conservation area as well as the details outlined in paragraph 18.3 of the consultation document?

Yes

Question 31. Can you provide details on how registers are maintained in practice?

Registers should be easily accessible. Research by Cardiff University commissioned by RTPI Cymru is exploring the scope of digital planning in Wales and will explore which digital planning tools are currently used and may provide useful evidence on this. The findings of the research are due to be published mid-2025.