

Tree Protection Bill – Call for Evidence

Response submitted by the National Trust to the NI Assembly Committee for Infrastructure

15/09/2026

With our staff, members, volunteers and supporters, the National Trust is the biggest conservation charity in Europe. We protect and care for places so people and nature can thrive. Many millions share the belief that nature, beauty and history are for everyone. So we look after the nation's coastline, historic sites, countryside and green spaces, ensuring everyone benefits. For everyone, for ever.

Clause 1 - Tree Preservation Orders: Councils

Clause 1 broadens the rules for tree preservation orders (TPOs) under the Planning Act (Northern Ireland) 2011 by allowing councils to make orders not only for amenity reasons but also for ecosystem services, meaning the benefits ecosystems provide to human well-being. It also strengthens TPO protections by making it an offence to knowingly permit any prohibited act, such as cutting, damaging, or destroying a tree.

A new set of subsections creates special protection for ancient trees: councils may designate them without needing to meet amenity or ecosystem tests, must commission an arboriculturist's assessment when their status is uncertain, and must issue a TPO if the tree is confirmed as ancient unless it is dead. If a council chooses not to commission an assessment, it must give written reasons.

Finally, Clause 1 changes when a TPO takes effect, allowing it to become operative either on confirmation by the council or automatically when deemed confirmed under section 123 of the 2011 Act.

Do you agree with Clause 1 of the Bill?

Yes

Please provide information to support your answer here:

The National Trust's charitable purpose is to care for places of historic interest or natural beauty for everyone, for ever. Across Northern Ireland we manage 22% of the coastline and look after 46 sq. miles of countryside. Our strategy to 2035 sets a long-term goal to restore nature not just on National Trust land, but everywhere.

We welcome the opportunity to respond to the Committee's Call for Evidence on the Tree Protection Bill. Our approach to nature restoration and conservation is aligned with the Lawton principles – bigger/more, better, and joined-up. This includes trees and woodland

habitats, which have a crucial role to play in Northern Ireland's response to the nature and climate crises. To meet Northern Ireland's woodland cover targets, we must look after the trees we already have, in addition to planting more. We believe the Tree Protection Bill takes a practical, achievable step forward to do that, modernising the Tree Protection Order (TPO) system and strengthening protection of Northern Ireland's most important trees and woodlands. We recognise that the Bill will place responsibility upon planning departments with Local Authorities and would emphasise the importance of the Local Authority teams having capacity to implement the requirements. Support or resourcing from the department may be required to build capacity within Local Authorities to ensure that the objectives of the bill are met and that delays within the TPO system are reduced.

The National Trust strongly supports Clause 1 of the Bill. Further comments on the specific proposals are included below.

Ecosystem Services

Under the Planning Act (Northern Ireland) 2011, the primary justification for making a TPO is a tree's contribution to public amenity. In practice, this means that considerable weight is placed on a tree's visual prominence and its visibility from public spaces. While additional factors for consideration are included in the recognised methodology (The Tree Evaluation Method for Preservation Orders – TEMPO), such as veteran status, historical significance and contribution to wider arboricultural features, the current system is primarily designed to assess amenity value. Trees of significant environmental or ecological value may struggle to satisfy a framework that has been designed around visibility and amenity.

While amenity is important, beyond their visual appeal, trees provide a range of benefits – often referred to as ecosystem services – including carbon sequestration, biodiversity, air quality improvement, flood mitigation, urban cooling, soil stabilisation, and wider benefits to public health and wellbeing. The current legislative framework for tree protection does not explicitly recognise these benefits when determining whether a tree should receive statutory protection.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) already recognises the importance of ecosystem services, and the role that trees and wider green infrastructure play in delivering these benefits, within the planning system. The inclusion of ecosystem services within the statutory basis for TPOs would therefore align tree protection legislation with principles that are already embedded within Northern Ireland planning policy, reflecting the same understanding of tree value that underpins current public investment in tree-planting. It would also provide greater consistency around interpretation and decision-making for TPOs and recognise within the system the wide range of benefits that trees provide to society.

Cause or Permit

We strongly support the inclusion of "cause or permit" within the scope of TPOs. The current provisions under the Planning Act (Northern Ireland) 2011 do not explicitly capture all circumstances in which unlawful works may be authorised, facilitated or permitted. In practice, decisions to fell, top, lop, uproot, damage or destroy a protected tree are

frequently made by landowners or those exercising control over land, with the work then undertaken by contractors or other third parties. The inclusion of "cause or permit" would ensure that TPOs better reflect the reality of how unlawful works can occur, making it clear that a TPO may prohibit not only the direct carrying out of unauthorised works but also the authorisation, facilitation or permitting of such works. This would reduce ambiguity regarding who is responsible for actions affecting protected trees, strengthen the effectiveness of TPOs, and bring Northern Ireland more closely in line with the approach taken in England.

Ancient Trees

We also strongly support the proposal to introduce specific protections for ancient trees. Ancient trees are irreplaceable, their ecological, cultural and historical significance cannot be recreated or replaced within a human timescale and once lost, they are lost permanently. While TEMPO does currently take account of longevity and veteran trees, these characteristics are still considered within a broader emphasis on amenity. The importance of ancient trees as unique and irreplaceable natural assets justifies them having specific statutory protection – much as listed buildings and scheduled monuments are protected for their cultural, historic and heritage value within the historic built environment.

Deemed Confirmation

Finally, we support the proposal for TPOs to take effect either on formal confirmation by the council or when deemed confirmed under the statutory process. This should provide greater certainty regarding the status of TPOs and reduce the risk of protection being compromised by administrative delays or procedural issues. This will help ensure that trees identified for protection benefit from timely legal safeguards and strengthen public confidence in the effectiveness of the TPO system.

Clause 2 - Provisional Tree Preservation Orders

Clause 2 updates section 123 of the 2011 Act by changing how provisional tree preservation orders (TPOs) become confirmed. While provisional TPOs still take effect immediately and normally lapse after six months unless formally confirmed, the amendment provides that they will now be deemed confirmed at the six-month point if the council has received no objections or representations and has not issued a decision to revoke the order. This effectively streamlines confirmation where there is no opposition, ensuring smoother protection for affected trees.

Do you agree with Clause 2 of the Bill?

Yes

Please provide information to support your answer here:

The National Trust supports Clause 2 of the Bill as it provides a more streamlined process for confirming uncontested provisional TPOs. We believe the six-month period provides a reasonable opportunity for landowners or other interested parties to submit any objections or evidence challenging a TPO – or for the council to determine the TPO is no longer justified. Where a council has received no objections or representations and has not revoked a provisional TPO, it seems reasonable that the order should be confirmed, rather than requiring any further steps to maintain protection.

Clause 3 - Penalties for Contravention of Tree Preservation Orders

Clause 3 strengthens section 126 of the 2011 Act by expanding the range of conduct that constitutes an offence. While the law already makes it illegal to cut down, uproot, damage, destroy, top, or lop a tree in breach of a tree preservation order (TPO), the amendment adds that anyone who knowingly causes or permits any of these prohibited acts is also guilty of an offence. This mirrors the broader protective approach introduced in Clause 1 and ensures accountability not only for direct actions but also for deliberate facilitation or allowance of TPO violations.

Do you agree with Clause 3 of the Bill?

Yes

Please provide information to support your answer here:

The National Trust strongly supports Clause 3 of the Bill, to ensure that the offence provisions relating to TPOs are brought in line with the protections introduced in Clause 1, which expands the scope of TPOs to prohibit the causing or permitting of unauthorised works. Clause 3 will ensure that those knowingly causing or permitting such works can be held liable for the offence. Without this amendment, there would be a disconnect between the conduct prohibited by a TPO and the conduct that may give rise to prosecution. Research by the Northern Ireland Public Services Ombudsman shows that no reported TPO breaches between 2019 and 2022 resulted in formal enforcement action or prosecution ([Northern Ireland Public Services Ombudsman, Strengthening Our Roots: An Overview Report on Tree Protection in the Planning System \(November 2023\)](#)). Given the nature and biodiversity crisis facing Northern Ireland, we believe that measures to provide greater clarity regarding liability and strengthen the ability of councils to pursue enforcement, should be welcomed. The proposal would also bring Northern Ireland more closely in line with the approach in England. We suggest that guidance be provided for Councils on interaction with planning controls, to provide guidance on, for example, if a breach did take place whether a council pursue this via planning office, TPO penalties, or both.

Clause 4 - Replacement of Trees

Clause 4 strengthens section 125 of the 2011 Act by tightening requirements for replacing trees removed or damaged in breach of a TPO. It would mandate that any replacement must be a heavy standard tree of an appropriate species, and landowners must notify the

council once it is planted. If that replacement dies, is damaged, diseased, or removed within five years, it must be replaced again. New rules also shift responsibility: where someone other than the landowner caused the TPO breach, that person must carry out the replacement duties, though the owner may step in if they fail to act within 18 months and can recover reasonable costs.

Do you agree with Clause 4 of the Bill?

Yes

Please provide information to support your answer here:

TPOs are designed to protect trees of significant importance. Where such trees are removed, damaged or destroyed in contravention of a TPO, the National Trust believes that the replacement requirements should be sufficiently robust to help restore the benefits associated with that tree over time.

Without specific requirements, replacement planting may differ significantly from the scale of the tree that has been lost. Requiring replacement with heavy standard trees of an appropriate species will help ensure the remedy more closely mirrors the scale of the tree that has been lost. This is particularly important given the wider benefits provided by mature trees. Smaller replacement trees are unlikely to provide the same level of benefits as a mature tree in the short to medium term.

Notifying councils once replacement planting has taken place should also improve transparency and assist councils in monitoring compliance with replacement obligations. Similarly, we support the proposal to require further replacement where a replacement tree dies, is removed, becomes diseased or is significantly damaged within five years. Without such a provision, replacement duties could potentially be discharged through planting that subsequently fails, undermining the objective of restoring tree cover and the benefits associated with the original protected tree. The five-year replacement period is also in line with recognised arboricultural principles, with newly planted trees requiring several growing seasons and ongoing management to ensure successful establishment and long-term survival.

We also support the provisions relating to responsibility for replacement planting. It is reasonable that responsibility for replacement should fall in the first instance on the individual responsible for the breach, with the landowner required to undertake the work where that person fails to act, whilst providing a mechanism to recover reasonable costs.

Clause 5 - Council to Inspect Replacement Trees

Clause 5 introduces section 125A, creating a new duty for councils to actively monitor trees planted as replacements under section 125. For five years after planting, councils must carry out annual inspections—either through site visits or by reviewing evidence provided by the landowner—to identify trees needing extra care or further replacement and to inform the landowner of required actions. When remedial work is needed, the council must notify both the landowner and, where known, the person responsible for the original TPO

breach. That person is required to carry out the remedial action unless the landowner chooses to do so; if they fail to act within the specified period, the landowner must complete the work and may recover reasonable costs from the person responsible for the breach.

Do you agree with Clause 5 of the Bill?

Yes

Please provide information to support your answer here:

The effectiveness of replacement planting depends not only on a tree being planted, but on its successful establishment and long-term survival. As such, we support the proposal to introduce a duty on councils to inspect replacement trees during the first five years following planting. This will help ensure that the requirements contained within Clause 4 are not a tick-box exercise, but instead a concerted effort to ensure the successful establishment of the tree.

Clause 6 - Enforcement of Duties as to Replacement Of Trees

Clause 6 updates section 164 of the 2011 Act by strengthening how councils enforce tree-replacement duties. It first aligns enforcement notices with earlier reforms by requiring that any ordered replacement must be a heavy standard tree, matching the standard introduced in Clause 4. It then adds new powers allowing councils to enter land and plant the required tree themselves if the person responsible for the TPO breach fails to comply, with the council able to recover costs from that person. If the responsible individual cannot be identified, is insolvent or cannot be found, the council may recover costs from the landowner, who in turn retains a right to reclaim those costs from the person who committed the breach.

Do you agree with Clause 6 of the Bill?

Yes

Please provide information to support your answer here:

Clause 6 complements the replacement and monitoring provisions within Clauses 4 and 5 and strengthens the enforceability of the replacement regime. It is important that councils have the necessary powers to secure compliance where the obligations under Clauses 4 and 5 are not met. Therefore, the National Trust supports the introduction of powers enabling councils to undertake replacement planting, and recover costs, where the responsible person has failed to comply with their duties.

Clause 7 - Tree Protection Map

Clause 7 adds new sections 128A–128D to the 2011 Act, creating a digital, publicly accessible system for tree-preservation information across Northern Ireland. Section 128A requires the Department to provide an online map showing all active TPOs,

conservation-area boundaries, and council-level statistics on TPO applications. Section 128B places duties on councils to upload their existing records within an initial upload period and then update the map at least every three months. Section 128C allows the Department to make regulations governing how Tree Protection Map information is made available and clarifies that, aside from personal-data protections, processing this information does not breach confidentiality. Section 128D reinforces that none of these duties permit processing personal data in violation of data-protection legislation.

Do you agree with Clause 7 of the Bill?

Yes

Please provide information to support your answer here:

The TPO system relies on landowners, developers, contractors and members of the public being able to easily identify whether a tree is protected by a TPO or located in a Conservation Area. While many councils already provide information on TPOs through online mapping systems, coverage and accessibility are currently inconsistent across Northern Ireland. Not all councils provide publicly accessible mapping and, where information is available, the format, functionality and ease of access can vary considerably. Indeed, the Northern Ireland Public Services Ombudsman has previously identified the need for information relating to protected trees to be more accessible to the public ([Northern Ireland Public Services Ombudsman, Strengthening Our Roots: An Overview Report on Tree Protection in the Planning System \(November 2023\)](#)).

Establishing a single Tree Protection Map would provide a consistent source of information for Northern Ireland as a whole, providing a level playing field across Councils and making it easier for landowners, developers, environmental organisations and local communities to access information on protected trees regardless of council boundaries. Councils would still be able to maintain their own records or online mapping systems and continue to provide additional local information where they wish to do so. The map will provide a resource that can be utilised as a source for material considerations in the planning process, in a similar way to how flood maps are used.

We also believe the Tree Protection Map could provide a valuable platform for recording additional information relating to protected trees over time. For example, if the Bill's provisions relating to ancient trees are enacted, consideration should be given to specifically identifying TPO protected ancient trees within the mapping system.

Clause 8 - Determination of Planning Applications

Clause 8 adds a new section 45(1A) to the 2011 Act, requiring councils to refuse planning permission where a proposed development would cause the loss or deterioration of ancient or long-established woodland, involve building within 15 metres of such woodland, or harm an ancient tree protected by a TPO, unless the applicant can demonstrate wholly exceptional circumstances. This creates a strong presumption against development that threatens Northern Ireland's most ecologically significant trees and woodlands.

Do you agree with Clause 8 of the Bill?

Yes

Please provide information to support your answer here:

Ancient and long-established woodland cover just 0.73% of Northern Ireland's land area – and ancient woodlands alone, approximately 0.04% of the land area. These are irreplaceable habitats, supporting complex ecological communities, historic features and environmental functions that have developed over centuries. They cannot be recreated through new planting or habitat creation. Similarly, ancient trees – and their ecological, landscape and cultural significance – cannot be replaced within any meaningful timescale.

The National Trust strongly supports the proposal to introduce a strong presumption against any development that would result in the loss or deterioration of ancient woodland, long-established woodland or ancient trees protected by a TPO.

The Woodland Trust's Back on the Map project found that approximately 13% of ancient and long-established woodland identified on the inventory had been lost since the 1960s, with development identified as one of the causes of that loss (Woodland Trust, Back on the Map: An Audit of Ancient and Long-established Woodland in Northern Ireland (2007)). Paragraph 6.192 of the Strategic Planning Policy Statement (SPPS) already recognises the importance of protecting ancient and long-established woodland: "Planning permission should only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known, ancient and long-established woodland". However, policy protection alone does not always provide sufficient certainty. Given the scarcity and irreplaceable nature of these habitats, we believe that statutory protection is required, and a requirement to demonstrate "wholly exceptional circumstances" is both justified and proportionate. The proposed 15-metre buffer should also help protect them from the indirect impacts of neighbouring development, such as root damage, soil disturbance, and changes in hydrology.

It is worth noting that the effectiveness of the proposal will depend on clear and consistent interpretation of what constitutes "wholly exceptional circumstances". Consideration should be given to defining this term in legislation or through supporting guidance, to ensure protection is sufficiently robust.

Clause 9 – Permitted Development

Clause 9 tightens permitted development rules under the Planning (General Permitted Development) Order (Northern Ireland) 2015 by removing automatic permission for any development that would harm ancient or long-established woodland. A new paragraph (5A) in Article 3 makes clear that permitted development rights no longer apply where a project would cause the loss or deterioration of such woodland or involve development within 15 metres of it.

Do you agree with Clause 9 of the Bill?

Yes

Please provide information to support your answer here:

Clause 9 complements the protections proposed in Clause 8 of the Bill by ensuring that ancient and long-established woodland receives protection not only where a planning application is required, but also where development would otherwise proceed under permitted development rights. Given the scarcity and irreplaceable nature of these habitats, we believe it is appropriate that development capable of causing their loss or deterioration should be subject to proper consideration rather than proceeding automatically under permitted development rights.

However, it is also worth noting that while Clause 8 extends protection to ancient trees protected by a TPO, Clause 9 does not. To ensure consistency, consideration should be given to whether equivalent protections should also apply within permitted development.

Clause 10 - Ecosystem Services

Clause 10 introduces a new Schedule 1A that defines the ecosystem services which can justify issuing a TPO. The Schedule groups these services into three categories—cultural, regulating, and supporting—and provides examples of the types of benefits each category covers. This gives councils a clearer, more structured basis for protecting trees on ecological and societal grounds beyond traditional amenity considerations.

Do you agree with Clause 10 of the Bill?

Yes

Please provide information to support your answer here:

We believe Clause 10 is a necessary addition, in order to define and expand on the new basis for protecting trees that is proposed under Clause 1. It provides greater clarity regarding the ecosystem services that may be considered when determining whether a tree warrants statutory protection. This should assist councils, applicants and members of the public in understanding how ecosystem services can be considered within the TPO process. It may also help promote greater consistency in decision-making across Northern Ireland. Whilst professional judgement will continue to play an important role in the assessment of TPOs, the inclusion of a statutory schedule provides a clearer framework than reliance upon interpretation alone.

Clause 11 - Interpretation: 2011 Act

Clause 11 adds several new definitions to section 250(1) of the 2011 Act: an “ancient tree” is defined using criteria set by the Ancient Tree Forum and Woodland Trust (or similar bodies, or as prescribed by regulations); “ancient woodland” refers to land continuously wooded since at least 1600 AD, including both semi-natural woodland and planted sites on ancient woodland; a “heavy standard tree” meets the specification in British Standard

8545:2014 (or any successor or prescribed standard); and “long-established woodland” means land continuously wooded since the 1830–1844 Ordnance Survey maps but without evidence of woodland cover before 1600.

Do you agree with Clause 11 of the Bill?

Unsure

Please provide information to support your answer here:

We welcome the inclusion of the definitions: clear and consistent definitions are important in ensuring the effective operation of the provisions contained elsewhere in the Bill.

We support the proposed definitions of “ancient woodland” and “long-established woodland”. These definitions are already used within planning and environmental policy and are consistent with the methodology used to develop Northern Ireland's Ancient Woodland Inventory. They are also consistent with the wider approach used elsewhere in the UK and have been adapted in work to develop an all-island inventory of ancient and long-established woodlands in Ireland.

We also support the proposed definition of “heavy standard tree” by reference to BS 8545. As this standard is already recognised within arboricultural practice, referencing an established technical standard provides clarity whilst allowing future updates to be accommodated through successor standards or regulations.

We are less certain, however, about defining an “ancient tree” by direct reference to criteria produced by specific organisations – even those with significant expertise in this area. Guidance produced by named organisations may be easily revised or superseded over time. The Committee may want to consider whether the criteria for identifying ancient trees would be more effectively established through regulations. For example, existing statutory definitions adopted elsewhere may provide a robust alternative model: the Biodiversity Net Gain Requirements (Irreplaceable Habitat) Regulations 2024 (in England) define ancient and veteran trees by reference to age, developmental characteristics, structural features and ecological value rather than by reference to a particular organisation's guidance. This approach would provide greater legal certainty, avoid reliance on third-party guidance and allow the definition to evolve in response to advances in arboricultural knowledge and practice.

Clause 12 – Interpretation: 2015 Order

Clause 12 adds definitions of “ancient woodland” and “long-established woodland” to Article 2 of the 2015 Order, using the same wording and meaning as those introduced into the 2011 Act by clause 11.

Do you agree with Clause 12 of the Bill?

Yes

Please provide information to support your answer here:

As set out in our response to Clause 11, we support the proposed definitions of ancient woodland and long-established woodland. Applying the same definitions within the Planning (General Permitted Development) Order (Northern Ireland) 2015 will help ensure consistency across the wider legislative framework and avoid uncertainty regarding the interpretation of these terms.

Clause 13 - Interpretation: General

Clause 13 sets out general interpretation provisions for the Act, defining the “2011 Act” as the Planning Act (Northern Ireland) 2011 and the “2015 Order” as the Planning (General Permitted Development) Order (Northern Ireland) 2015, and clarifying that references to Parts, numbered sections, and Schedules refer to the 2011 Act unless otherwise specified.

Do you agree with Clause 13 of the Bill?

Yes

Please provide information to support your answer here:

We support these interpretation provisions as they provide clarity and legal certainty regarding the operation of the Bill and the legislation it amends.

Clause 14 - Commencement

Clause 14 provides that the Act comes into operation twelve months after the day on which it receives Royal Assent.

Do you agree with Clause 14 of the Bill?

Yes

Please provide information to support your answer here:

A number of the provisions contained within the Bill will require preparation and implementation by councils and the Department. This includes updating procedures, developing guidance, training staff and, where required, establishing new administrative systems. A commencement period can therefore be justified in order to facilitate effective implementation.

However, an extended commencement period does create a risk that trees and woodlands which may benefit from the Bill's provisions – particularly ancient and long-established woodland and ancient trees – could be lost or damaged before the legislation takes effect. We encourage the Committee to consider whether a phased commencement approach may be more appropriate than a single commencement date. This would allow the provisions requiring significant administrative preparation to come into force later, whilst enabling key protection measures to commence earlier where practical.

