

Submitted to Tree Protection Bill - Call for Evidence
Submitted on 2026-09-02 17:10:41

Introduction

1 Confirmation of having read the Northern Ireland Assembly Committee's Privacy Notice.

I confirm that I have read the privacy notice.

2 What is your name?

Please provide information to support your answer.:
Newry Mourne and Down District Council

3 What is your email address?

Please provide information to support your answer.:
planning@nmandd.org

4 If you are providing a submission on behalf of an organisation or business, please state its name.

Please provide information to support your answer.:
Newry Mourne and Down District Council

5 The Committee for Infrastructure has agreed to publish all responses as part of the survey results. If you would like to have your survey results anonymised and for us not to publish your name or organisation, please indicate so here.

I am content for my information, including details of my name and organisation, to be published in the survey results., I would like my views to be anonymous and understand that my name and organisation details will be withheld, along with any identifiers in the response, but my views will still be published.

Clause 1 - Tree preservation orders: councils

6 Do you agree with Clause 1 of the Bill?

No

7 Please provide information to support your answer here:

Accessible:

There is a lack of clarity around what level of ecosystem services will be considered appropriate. All trees contribute to ecosystem services to some degree. In order for this to be a workable provision there is a need to indicate how this will be assessed.

This clause introduces an additional financial burden on Council's due to the resource requirement for an arboriculturist's assessment. What additional central government funding will be provided to assist Councils with the additional costs?

Regulations (secondary legislation) would be required to set out the level of procedures and processes that are to be used in practice. Planning policy, advice and guidance are insufficient when it relates to Planning Enforcement.

Clause 2 - Provisional tree preservation orders

8 Do you agree with Clause 2 of the Bill?

No

9 Please provide information to support your answer here

Accessible:

The Council acknowledges the potential benefits from the proposed clause which ensures provisional TPOs are confirmed and not overlooked due to administrative backlogs or missed deadlines. However the current 'Provisional' TPO process ensures trees are protected whilst being considered and the council have the scope to confirm with/without modifications or decide not to proceed based on a subsequent health and conditions survey. The update to Section 123 of the 2011 Act does not take account of any modifications that may be required to the provisional TPO.

An automatic confirmation also removes inbuilt checks within the process and could result in administrative mistakes or poorly defined boundaries going unnoticed which could ultimately result in an invalid TPO.

Clause 3 - Penalties for contravention of tree preservation orders

10 Do you agree with Clause 3 of the Bill?

No

11 Please provide information to support your answer here

Accessible:

It would appear that the insertion of wording “knowingly cause, or permit” is to broaden the circumstances under which it would be an offence, however in practice the legislation already enables the Council to pursue the landowner(s) and operator(s) who wilfully carry out unlawful works to a protected tree without consent provided. there is a robust and sound evidence (S126 states in respect of protected trees, ‘if any person...cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, that person shall be guilty of an offence...’). It is unclear as to what difference the additional wording will make in practice.

There is ambiguity and uncertainty around the use of “permits”, the Council considers that it would be difficult to prove what constitutes a landowner permitting the prohibited acts. Should the 2011 Act be revised as proposed this will result in inconsistent approaches to enforcement as vague terminology will likely lead to unpredictable court rulings and uneven enforcement response across 11 different councils.

Clause 4 - Replacement of trees

12 Do you agree with Clause 4 of the Bill?

No

13 Please provide information to support your answer here

Accessible:

The Council would question whether requiring a ‘heavy standard’ replacement is the appropriate requirement. It is possible that, in some cases, the tree that has been removed may not have been of an appropriate size for its location. The amendment of this wording in legislation is too prescriptive in this instance, and a degree of flexibility is required.

The monitoring requirement significantly increases resource commitment on the council, firstly in respect of the 18-month limit for planting, then each year up to five years, and repeating for each tree that is replaced. The Council would not currently have the resources to undertake this level of monitoring.

The Council would question whether it is reasonable to require the owner to deal with the person who has caused the breach and ensure a suitable replacement is planted or to take to court to recover costs.

Clause 5 - Council to inspect replacement trees

14 Do you agree with Clause 5 of the Bill?

No

15 Please provide information to support your answer here

Accessible:

The monitoring requirement significantly increases resource commitment on the council, firstly in respect of the 18-month limit for planting, then each year up to five years, and repeating for each tree as replaced. The Council would not currently have the resources to undertake this level of monitoring.

Clause 6 - Enforcement of duties as to replacement of trees

16 Do you agree with Clause 6 of the Bill?

No

17 Please provide information to support your answer here

Accessible:

There are resource implications for the council in terms of the procurement of the replacement tree(s), and subsequent replanting. If the tree(s) do not establish successfully, it is unclear who is then responsible, i.e. is it the responsibility of the council or the landowner.

The Council consider it too impractical and unreasonable to recover costs from the landowner if they are not responsible for the TPO breach or had no prior knowledge of the contravention.

Clause 7 - Tree Protection Map

18 Do you agree with Clause 7 of the Bill?

No

19 Please provide information to support your answer here

Accessible:

The proposed requirement for the Department to provide an online map showing all active TPOs, conservation area boundaries, and council level statistics on TPO applications appears to be reverting to a centralised planning system. Newry, Mourne and Down District Council already hosts an interactive map with this detail. The Council already place TPO records in the public domain and consider the proposed legislative requirement onerous and unnecessary.

<https://experience.arcgis.com/experience/f6ef4625666b46788706abc4d6d02538>

TPO data can be provided to the Department subject to a data sharing agreement. Legislation should not place a duty on Councils to upload their data, this is considered to be excessive.

Clause 8 - Determination of planning applications

20 Do you agree with Clause 8 of the Bill?

No

21 Please provide information to support your answer here

Accessible:

This is considered too prescriptive to be included in legislation. Rather this should be included in planning policy with further detail on requirements contained in Supplementary Planning Guidance (SPG).

The council is unclear how "deterioration" will be assessed and over what period of time.

Clause 9 - Permitted Development

22 Do you agree with Clause 9 of the Bill?

No

23 Please provide information to support your answer here

Accessible:

Applying this change to legislation goes further than provision in England, Wales and Scotland. Unlike the proposed strict blanket ban in Northern Ireland, England's General Permitted Development Order (GPDO) does not automatically strip away a homeowner's or farmer's minor PD rights just for being within 15 metres of a woodland boundary. Scotland relies heavily on NatureScot guidance, which allows local planning officers to adjust the buffer size based on the specific type of development. A low-impact, non-invasive rural project might be allowed closer than 15 metres if it poses no ecological threat. Northern Ireland's Clause 9 establishes a hard legal boundary that triggers a mandatory full planning application, regardless of the project's actual impact.

The Council consider that provision of an ancient and long established woodland dataset would be necessary to support this legislative change. This would require an appropriate NI Government department with the necessary expertise to be identified by the Tree Protection Bill. Whilst Tree Officers working within Planning departments in England are qualified arboriculturists, planning officers in Northern Ireland are not. Councils do not possess the necessary expertise for identifying, reviewing or updating data records.

An Ancient and long established Woodland dataset should therefore be provided for the whole region. There should be clear accountability and governance arrangements set out in the Tree Protection Bill identifying the responsible government authority (such as DAERA) for managing and monitoring the dataset.

If the expectation is that Councils will be responsible for formulating, monitoring and reviewing such a dataset then this will result in the need for additional expertise and resourcing which should be provided by central government.

Clause 10 - Ecosystem services

24 Do you agree with Clause 10 of the Bill?

No

25 Please provide information to support your answer here

Accessible:

The inclusion of “ecosystem services” would qualify all trees as eligible for protection. This would potentially widen the scope and could result in high numbers of TPOs across the district. Rather than strengthening the protection, this has the potential to undermine the purpose of TPOs.

To legally justify a TPO based on "regulating services" (like carbon sequestration, microclimate regulation, or flood mitigation), the Council will require more input from specialized ecologists and arboriculturists.

Processing, verifying, and defending TPOs under these new criteria will increase pressure on Council resources, which will impact delivery of the Council's planning functions.

Clause 11 - Interpretation: 2011 Act

26 Do you agree with Clause 11 of the Bill?

Yes

27 Please provide information to support your answer here

Accessible:

Whilst the Council agrees in principle with the introduction of clear, standardised definitions for ancient trees, heavy standard trees, and historical woodlands it does, as previously highlighted, consider that there will be resource implications and legal burdens placed on councils as a consequence of the proposed measures within the Bill.

See response to Clause 9 in respect of the need for an ancient or long established woodland dataset.

Clause 12 - Interpretation: 2015 Order

28 Do you agree with Clause 12 of the Bill?

Yes

29 Please provide information to support your answer here

Accessible:

No response considered necessary

Clause 13 - Interpretation: general

30 Do you agree with Clause 13 of the Bill?

Yes

31 Please provide information to support your answer here

Accessible:

No response considered necessary.

Clause 14 - Commencement

32 Do you agree with Clause 14 of the Bill?

Yes

33 Please provide information to support your answer here

Accessible:

No response considered necessary.