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Woodland Trust Northern Ireland Response to the Tree Protection Bill - Call for Evidence

The Woodland Trust is the UK's leading woodland conservation charity. In Northern Ireland, we work to protect and restore ancient and long-established woodlands, while planting more trees to support biodiversity, strengthen climate resilience, and deliver wider environmental, social and health benefits. Our vision is a world where woods and trees thrive for people and nature.

We welcome the opportunity to respond to the Infrastructure Committee's Call for Evidence on the Tree Protection Bill. We strongly support the overall aim of the Bill to strengthen the protection of Northern Ireland's most important trees and woodlands, modernise the Tree Preservation Order (TPO) system, and ensure that the law reflects current understanding of the environmental, social, cultural and health benefits that trees provide. Many of the provisions contained within the Bill build upon principles already recognised within Northern Ireland planning policy and arboricultural practice, whilst bringing statutory protections more closely into line with approaches adopted in other jurisdictions. We consider the Bill to represent a positive and proportionate step forward in the protection of Northern Ireland's oldest and most significant trees and woods.

Clause 1 - Tree Preservation Orders: Councils

Do you agree with Clause 1 of the Bill?

Yes

Please provide information to support your answer here:

The Woodland Trust Northern Ireland strongly supports the amendments to the Planning Act (Northern Ireland) 2011 contained within Clause 1 of the Bill. Our rationale for supporting each of these amendments is set out below.

Ecosystem Services

Under the current legislative framework, the primary justification for making a TPO is a tree's contribution to amenity.¹ In practice, this means that considerable weight is placed on a tree's visual prominence and its visibility from public spaces.

Whilst amenity forms the basis for TPO decisions, the Planning Act does not provide a detailed statutory definition or objective scoring system for assessing amenity value. Many trees contribute to amenity, yet only a proportion are considered worthy of statutory protection. Determining whether that contribution is sufficient to justify a TPO therefore relies upon the exercise of professional judgement and interpretation.

The Tree Evaluation Method for Preservation Orders (TEMPO) is a recognised methodology for assessing the suitability of trees for Tree Preservation Orders.² TEMPO is a three-part system comprising:

- Part 1: Amenity Assessment;
- Part 2: Expediency Assessment; and
- Part 3: Decision Guide.

Part 1 assesses a tree against four criteria:

- Condition;
- Remaining longevity;
- Relative public visibility; and
- Other factors.

TEMPO illustrates the central role of amenity in currently assessing the suitability of trees for TPO protection. It prompts surveyors to consider the realistic potential for future visibility with changed land use, recognising that development may increase the prominence of trees that are not currently readily visible. Whilst TEMPO does allow consideration of additional factors such as veteran status, historical significance and contribution to wider arboricultural features, these remain supplementary considerations within a system primarily designed to assess amenity value.

Whilst it is our view that amenity should remain an important consideration, trees should not be considered merely as aesthetic features within the landscape. Trees provide a wide range of benefits beyond their visual contribution. These benefits, often referred to as 'ecosystem services', include carbon sequestration, biodiversity, air quality improvement, flood mitigation, urban cooling, soil stabilisation, and wider benefits to public health and wellbeing.

The concept of ecosystem services is well established within policy and provides a recognised framework for understanding the benefits that nature provides to society.

¹ [Planning Act \(Northern Ireland\) 2011, Section 122\(1\)](#)

² [Tree Evaluation Method for Preservation Orders \(TEMPO\) Version 2016c, Survey Data Sheet and Decision Guide \(2016\)](#)

Ecosystem services are reflected in national and international environmental assessment frameworks and are already recognised within Northern Ireland planning policy. The Strategic Planning Policy Statement (SPPS) defines ecosystem services as *“the processes by which the environment produces resources used by people that are often taken for granted, such as clean air, water, food and materials”*. The SPPS also recognises the role that trees and wider green infrastructure play in delivering these benefits. More recently, the commencement of the Northern Ireland Environmental Principles Policy Statement has further reinforced the importance of integrating environmental considerations into policy development across government.³ 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's wider environmental and planning policy framework.

Furthermore, the importance of these benefits is already recognised by local councils across Northern Ireland. Examples include:

- Antrim and Newtownabbey Borough Council's One Million Trees initiative;
- Ards and North Down Borough Council's Tree Strategy and STAND4TREES initiative;
- Belfast City Council's One Million Trees initiative;
- Lisburn & Castlereagh City Council's Big Tree Project; and
- Mid and East Antrim Borough Council's Tree and Woodland Strategy.

Councils are already using ecosystem-service-based arguments to justify tree planting and woodland strategies. These programmes are justified not simply on aesthetic grounds, but because of the role trees play in supporting health and wellbeing, nature recovery, climate action and flood resilience.

However, the current legislative framework for tree protection does not explicitly recognise these benefits when determining whether a tree should receive statutory protection. As a result, trees of significant environmental or ecological value may struggle to satisfy a framework that has been designed around visibility and amenity. The Bill would ensure that similar benefits can be considered when determining whether significant existing trees warrant protection.

It is our view that the existence of an ecosystem service benefit should not automatically justify statutory protection. As with amenity, professional judgement should continue to be central in determining whether the contribution is sufficient to warrant a TPO. The Bill should not create an automatic entitlement to protection for every tree providing ecosystem services; rather, it should allow those benefits to be considered alongside amenity when determining whether a TPO is justified. Explicitly incorporating ecosystem services into legislation would therefore create greater

³ DAERA, Northern Ireland Environmental Principles Policy Statement (in force from 2 September 2026)

consistency between how trees are valued elsewhere in policy and how they are assessed for protection.

This would also create greater coherence between tree planting and tree protection policy. Councils increasingly justify investment in tree planting programmes based on ecosystem services such as carbon storage, biodiversity, health and wellbeing, flood prevention, improved air quality and urban cooling. Mature trees are already delivering many of these benefits at scale, whereas newly planted trees may take decades to provide comparable value. By explicitly recognising ecosystem services as a basis for TPOs, this amendment in Clause 1 ensures that the statutory framework for tree protection reflects the same understanding of tree value that already underpins public investment in tree planting.

Cause or Permit

The provisions currently contained within the Planning Act 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" ensures that TPOs better reflect the reality of how unlawful works can occur. It makes 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 provision strengthens the effectiveness of TPOs by reducing ambiguity regarding who may be responsible for actions affecting protected trees. It also helps ensure that those exercising control over land cannot avoid responsibility simply because the work is undertaken by another person acting on their behalf.

This provision would also bring Northern Ireland more closely into line with the approach taken in England, where section 210 of the Town and Country Planning Act 1990 recognises that responsibility for unlawful works to protected trees may extend beyond the individual physically carrying out the work. The inclusion of equivalent wording in Northern Ireland legislation reflects an established principle that those who authorise, facilitate or permit unlawful works should also fall within the scope of tree protection provisions.

We do, however, note that the Bill introduces the qualification that a person must "knowingly" cause or permit the prohibited act. This wording does not appear within the equivalent English provision. Consideration should therefore be given to whether the inclusion of "knowingly" is necessary or whether it could create uncertainty regarding

enforcement by introducing an additional evidential burden that is not present in the English model.

Ancient Trees

We strongly support the provision to introduce specific statutory 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.

This provision recognises that ancient trees require a distinct approach to protection. Existing assessment methodologies, including TEMPO, were developed primarily to assess whether trees should be protected on amenity grounds. Whilst TEMPO includes mechanisms intended to recognise veteran trees and other special characteristics, these considerations sit within a broader framework focused on condition, longevity, visibility and expediency.

Whilst TEMPO seeks to account for older trees through its longevity assessment and recognition of veteran trees, the methodology remains focused on assessing the suitability of a tree for protection through an amenity-based framework. The significance of ancient trees derives not simply from their contribution to amenity, but from their rarity, age, cultural importance and status as irreplaceable living assets. As such, it is appropriate that ancient tree status should itself be capable of justifying statutory protection.

The provision also reflects principles already embedded within Northern Ireland's planning system. The planning framework recognises that certain elements of the historic built environment warrant specific protections because of their intrinsic significance and irreplaceable nature. Listed buildings and scheduled monuments are protected not only because they contribute to amenity, but because they embody cultural, historical and heritage value that would be impossible to replace if lost.⁴

It is our view that ancient trees should be viewed in a similar way. They are living heritage assets that have survived for centuries and form an important part of Northern Ireland's environmental and cultural heritage. Their value extends beyond appearance or visibility and includes their contribution to biodiversity, landscape character, local identity and the historic environment.

The use of professional assessment is also proportionate given the rarity and significance of ancient trees. The Bill provides a mechanism for councils to obtain suitably qualified arboricultural advice where a tree's ancient status is uncertain. Whilst ancient trees often exhibit characteristics associated with advanced age, including

⁴ [Department for Infrastructure, The Strategic Planning Policy Statement for Northern Ireland: Planning for Sustainable Development, Edition 2 \(December 2025\), paragraphs 6.1, 6.3, 6.8, 6.12 and 6.15; Historic Monuments and Archaeological Objects \(Northern Ireland\) Order 1995](#)

decay, deadwood and hollowing, these features are frequently central to their ecological and heritage value. The existence of a TPO would not prevent appropriate risk management or emergency works where necessary. Rather, it helps ensure that decisions relating to the protection or loss of ancient trees are informed by appropriate expertise and recognise the exceptional significance of these irreplaceable assets.

We therefore strongly support the provision for the protection of ancient trees. This recognises that the protection of such trees should not depend solely upon their ability to satisfy an amenity-based assessment but should reflect their unique status as irreplaceable natural heritage assets.

Deemed Confirmation

We support the provision regarding the commencement of TPOs. Members of the public reasonably assume that where a tree is recorded as being subject to a TPO, it benefits from effective legal protection. Allowing a TPO to take effect either on formal confirmation by the council or when deemed confirmed under the statutory process 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

Do you agree with Clause 2 of the Bill?

Yes

Please provide information to support your answer here:

The Woodland Trust Northern Ireland supports Clause 2 of the Bill as it provides a more streamlined mechanism for confirming uncontested provisional TPOs. Where no objections or representations have been received and a council has not taken a decision to revoke a provisional TPO, it is reasonable that the order should be deemed confirmed rather than requiring a further administrative step to maintain protection.

Under Clause 2 of the Bill, a provisional TPO will continue to take immediate effect when made and will only be deemed confirmed after six months where no objections or representations have been received and the council has not decided to revoke the order. The six-month period during which a provisional TPO remains in force provides an opportunity for landowners and other interested parties to submit objections, representations or evidence challenging the order. Landowners also remain free to commission their own arboricultural advice where they disagree with the making of a TPO.

The provision does not prevent councils from completing arboricultural assessments or considering additional evidence during the provisional period where they consider it necessary. Rather, it provides a mechanism for protection to continue where no objections have been received, and no decision has been taken to revoke the order.

Importantly, the provision does not remove any existing powers from councils. If a council determines that a provisional TPO is no longer justified, it retains the ability to revoke the order. Councils also retain powers under the Planning (Trees) Regulations (Northern Ireland) 2015 to revoke Tree Preservation Orders where appropriate.⁵ As such, deemed confirmation does not prevent a council from acting where subsequent evidence demonstrates that protection is no longer justified.

We consider Clause 2 to be a safeguard rather than a replacement for the normal confirmation process. Councils should continue to assess TPOs and progress confirmation decisions in a timely manner. However, where a provisional TPO is uncontested and there is no intention to revoke it, the continued protection of the tree should not depend upon the completion of an additional time-bound procedural step.

Clause 3 - Penalties for Contravention of Tree Preservation Orders

Do you agree with Clause 3 of the Bill?

Yes

Please provide information to support your answer here:

In line with our support for Clause 1 of the Bill, we also strongly support Clause 3 of the Bill as it ensures that the offence provisions relating to TPOs are aligned with the broader protections introduced elsewhere in the Bill.

Clause 1 expands the scope of TPOs to prohibit the causing or permitting of unauthorised works. Clause 3 is a necessary complementary measure, ensuring that those who cause or permit such works may also be held liable for an 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.

The need to strengthen enforcement is highlighted by the findings of the Northern Ireland Public Services Ombudsman's report *Strengthening Our Roots*. The report found that 369 tree protection breaches were reported between 2019 and 2022, yet only one resulted in enforcement action and none resulted in prosecution.⁶ Analysis of the data shows that 144 of the reported breaches related specifically to TPOs, whilst the sole enforcement action concerned a breach of condition notice rather than a TPO.

⁵ [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015, Part 2, Regulation 8](#)

⁶ [Northern Ireland Public Services Ombudsman, Strengthening Our Roots: An Overview Report on Tree Protection in the Planning System \(November 2023\)](#)

Consequently, none of the reported TPO breaches resulted in formal enforcement action or prosecution.

Against that backdrop, measures that provide greater clarity regarding liability and strengthen the ability of councils to pursue enforcement action should be welcomed. Clause 3 closes a potential enforcement loophole by making clear that liability extends beyond the individual physically carrying out unlawful works and may also apply to those who knowingly authorise, direct or permit those actions.

The amendment would provide councils and prosecutors with a clearer statutory basis for enforcement and reduce the scope for disputes regarding responsibility for breaches of TPOs. This should help ensure that accountability rests with all those responsible for unlawful works, rather than solely with the individual undertaking the physical work.

The provision would also bring Northern Ireland more closely into line with the approach taken in England, where section 210 of the Town and Country Planning Act extends liability for unlawful works to protected trees to those who cause or permit such works. However, as with our response to Clause 1, we note that the Bill introduces the qualification that a person must "knowingly" cause or permit the prohibited act. This wording does not appear within the equivalent English provision. Consideration should therefore be given to whether the inclusion of "knowingly" is necessary or whether it could introduce an additional evidential burden for enforcement that is not present in the established English model.

Clause 4 - Replacement of Trees

Do you agree with Clause 4 of the Bill?

Yes

Please provide information to support your answer here:

A TPO is intended to protect trees that have been considered worthy of statutory protection. Where such a tree is removed, damaged or destroyed in contravention of a TPO, it is our view that replacement requirements should be sufficiently robust to help restore the benefits associated with that tree over time.

The Woodland Trust Northern Ireland supports Clause 4 of the Bill as the absence of a more specific requirement can result in replacement planting that differs significantly in scale from the tree that has been lost. A heavy standard tree more closely mirrors the scale of the tree that has been lost and therefore represents a more proportionate form of replacement planting.

We acknowledge that a heavy standard tree is likely to be more costly to purchase, plant and establish than smaller planting stock. However, this reflects the purpose of the clause, namely, to secure a meaningful and proportionate replacement for a tree

that has previously been considered worthy of statutory protection. Where a protected tree has been unlawfully removed or damaged, it is reasonable that the costs associated with restoring those lost benefits should be borne by the person responsible for the breach rather than by the wider public. The replacement duty therefore serves not only as a restoration measure but also as an important deterrent against unlawful removal of protected trees.

The power to require replacement planting remains a discretionary power available to councils. Clause 4 does not require replacement planting in every case but instead establishes a minimum standard where a council determines that replacement planting is appropriate. In our view, the clause therefore improves the quality and effectiveness of replacement planting rather than removing professional judgement regarding whether replacement planting should be required.

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.

We also support the requirement for landowners to notify councils once replacement planting has taken place. This should improve transparency and assist councils in monitoring compliance with replacement obligations.

Similarly, we support the provision 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 consistent with recognised arboricultural principles relating to tree establishment. BS 8545, *Trees: from nursery to independence in the landscape*, is founded on the principle that newly planted trees require a period of establishment before achieving independence in the landscape.⁷ In practice, this process extends over several growing seasons and requires ongoing management to ensure successful establishment and long-term survival. The requirement to replace trees that fail within the first five years is therefore consistent with the principle that replacement planting should demonstrate successful establishment before replacement obligations can reasonably be regarded as discharged.

We also consider that replacement trees planted pursuant to section 125 should automatically become subject to the same TPO protections as the tree they replace. The purpose of replacement planting is to restore, over time, the benefits associated with the loss of a protected tree. Applying equivalent protection to replacement trees

⁷ British Standards Institution, BS 8545: *Trees: from nursery to independence in the landscape* (2014, as amended)

would help ensure that these benefits are secured in the long term and avoid a situation where a replacement tree, planted to satisfy a statutory replacement duty, is left without the protections that applied to the original tree.

We also support the provisions relating to responsibility for replacement planting. Clause 4 does not require replacement planting in every case but instead establishes a framework that applies where a council considers replacement planting to be appropriate. Where a person other than the landowner has carried out the unlawful works, it is reasonable that responsibility for replacement should fall in the first instance on the individual responsible for the breach. Allowing the landowner to undertake the work where that person fails to act, whilst providing a mechanism to recover reasonable costs, strikes an appropriate balance and helps ensure that replacement planting is ultimately delivered.

Clause 5 - Council to Inspect Replacement Trees

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 provision to introduce a duty on councils to inspect replacement trees during the first five years following planting.

This provision complements the replacement requirements contained within Clause 4 and helps ensure that replacement obligations are not discharged simply through the act of planting a tree. Regular monitoring provides an opportunity to identify trees that have failed, become diseased, suffered damage or require additional care before the replacement benefits are lost.

The inspection duty should also be considered in the context that replacement planting remains a discretionary power available to councils rather than a requirement arising in every TPO case. As such, the inspection provisions apply only where replacement planting has already been considered appropriate. The purpose of Clause 5 is not to create unnecessary administrative activity, but to ensure that replacement planting delivers the intended outcome of restoring the benefits associated with the loss of a protected tree.

The proposed five-year inspection period is also consistent with recognised arboricultural principles relating to tree establishment. BS 8545, Trees: from nursery to independence in the landscape, recognises that newly planted trees require a period of establishment before achieving independence in the landscape. Annual inspections

during this period provide a practical mechanism to assess whether replacement planting is developing successfully and whether further intervention is required.

We also support the flexibility afforded to councils in carrying out inspections. Allowing councils to undertake site visits or review evidence provided by landowners provides a proportionate approach whilst ensuring that compliance can be monitored effectively.

The provisions relating to remedial action are also welcome. Where replacement trees fail or require additional care, responsibility should rest primarily with the person responsible for the original TPO breach. This helps reinforce the principle that those responsible for the unlawful loss of a protected tree should bear responsibility for restoring the benefits that have been lost.

The Committee may wish to consider whether the monitoring requirements in Clause 5 could be supported through a proportionate compliance regime. For example, annual photographic evidence could be provided to demonstrate that replacement planting remains in place and is establishing successfully, with physical inspections reserved primarily for non-compliant cases or where concerns arise. Consideration could also be given to a fixed penalty mechanism for where there is a failure to provide required evidence, helping to support compliance whilst reducing the inspection burden on councils.

Overall, Clause 5 will help ensure that replacement planting is not only undertaken but successfully established, thereby improving the effectiveness of the wider replacement regime.

Clause 6 - Enforcement of Duties as to Replacement of Trees

Do you agree with Clause 6 of the Bill?

Yes

Please provide information to support your answer here:

The Woodland Trust Northern Ireland considers Clause 6 to be a vital complement to the replacement and monitoring provisions contained within Clauses 4 and 5. Whilst those clauses establish requirements for replacement planting and ongoing inspection, those provisions will only be effective if councils have the necessary powers to secure compliance where obligations are not met.

We support the introduction of powers enabling councils to undertake replacement planting where the responsible person has failed to comply with their duties. This helps ensure that replacement duties result in the successful delivery of replacement planting rather than simply creating obligations that may go unfulfilled.

Importantly, these powers would arise only in a relatively limited number of circumstances where replacement planting has already been considered appropriate, a

replacement duty has been imposed, and the responsible person has failed to comply. The clause should therefore be viewed as a backstop mechanism to secure compliance rather than a routine council function.

We also support the provisions dealing with circumstances where the person responsible for the breach cannot be identified, located or is otherwise unable to meet their obligations. Without such provisions, there is a risk that replacement duties could be frustrated despite a breach having occurred. This provision helps close these potential loopholes by ensuring that mechanisms remain available to secure replacement planting and recover costs where appropriate.

Overall, it is our view that Clause 6 strengthens the enforceability of the replacement regime established by Clauses 4 and 5 and helps ensure that the unlawful loss of protected trees is addressed through the actual delivery of replacement planting.

Clause 7 - Tree Protection Map

Do you agree with Clause 7 of the Bill?

Yes

Please provide information to support your answer here:

Publicly accessible information is fundamental to the effective operation of the tree protection system. Given that unauthorised works to protected trees can result in criminal liability, there is a strong public interest in ensuring that information relating to protected trees is easily accessible, consistent and readily available. Access to this information should not depend upon the differing systems, formats or resources available within individual councils.

Whilst many councils already provide information on TPOs through online mapping systems, coverage and accessibility remain inconsistent across Northern Ireland. Not all councils currently provide publicly accessible mapping, and where information is available, the format, functionality and ease of access can vary considerably. As a result, members of the public may need to navigate multiple council websites and mapping systems to obtain information on protected trees.

The provision to establish a single Tree Protection Map would provide a consistent source of information for Northern Ireland as a whole. A centralised system would make it easier for landowners, developers, environmental organisations and local communities to access information on protected trees regardless of council boundaries.

Many councils already maintain online mapping systems showing Tree Preservation Orders and Conservation Areas. The provision should therefore not be viewed as creating an entirely new requirement, but rather as improving consistency and

accessibility across Northern Ireland. The existence of council-operated mapping systems demonstrates that much of the underlying information is already held in a digital format. The provision is therefore concerned with bringing existing information together in a more accessible and consistent format rather than creating entirely new records.

The provision is also consistent with the recommendations contained within the Northern Ireland Public Services Ombudsman's 2023 report *Strengthening Our Roots*, which identified the need for information relating to protected trees to be more accessible to the public.

Furthermore, the Bill places responsibility for providing the Tree Protection Map on the Department, whilst councils retain responsibility for maintaining and updating the underlying information. As Northern Ireland's strategic planning authority, the Department is well placed to provide and maintain a consistent regional platform. Councils can continue to maintain their underlying records, whilst the public would benefit from access to a single authoritative source of information.

This provision does not prevent councils from continuing to maintain their own records or online mapping systems. Rather, it establishes a common baseline for accessibility and transparency across Northern Ireland whilst allowing councils to continue providing additional local information where they wish to do so.

Overall, Clause 7 represents a practical and proportionate measure that would improve consistency, accessibility and public awareness of tree protection across Northern Ireland.

Clause 8 - Determination of Planning Applications

Do you agree with Clause 8 of the Bill?

Yes

Please provide information to support your answer here:

Ancient woodland and long-established woodland are irreplaceable habitats. Having developed over centuries, these woodlands support complex ecological communities, historic features and environmental functions that cannot be recreated through new planting or habitat creation. Once lost, they are lost permanently. The same principle applies to ancient trees; their ecological, landscape and cultural significance cannot be replaced within any meaningful timescale.

Northern Ireland has only a very limited extent of ancient and long-established woodland. The Woodland Trust's Ancient Woodland Inventory identifies approximately 9,965 hectares of ancient and long-established woodland, representing just 0.73% of Northern Ireland's land area. Of this, only 549 hectares, equivalent to approximately

0.04% of the land area, can be identified with a high degree of certainty as ancient woodland.⁸ These figures demonstrate both the rarity and significance of this resource.

The Ancient Woodland Inventory provides a robust and transparent evidence base for identifying these important habitats.⁹ Produced through the Back on the Map project between 2002 and 2007, the inventory combined historic map analysis, archive research, field survey and statistical analysis to classify woodland according to its antiquity. The report concluded that the methodology used was more rigorous than that used to produce equivalent inventories in Great Britain.¹⁰

We therefore strongly support introducing a strong presumption against development that would result in the loss or deterioration of ancient woodland, long-established woodland or ancient trees protected by a TPO. Given the scarcity and irreplaceable nature of these habitats and features, we believe that a requirement to demonstrate wholly exceptional circumstances is both justified and proportionate. Furthermore, given that ancient and long-established woodland occupies less than 1% of Northern Ireland's land area, genuine conflicts between development proposals and these habitats are likely to be rare and highly site-specific.

The need for stronger statutory protection is demonstrated by both the findings of the Ancient Woodland Inventory and recent planning decisions. The 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.¹¹ The report concluded that ancient and long-established woodland is scarce, irreplaceable and should receive the highest possible levels of protection.

Whilst the Strategic Planning Policy Statement (SPPS) already recognises the importance of protecting ancient and long-established woodland, recent experience demonstrates that policy protection alone may not always provide sufficient certainty. Paragraph 6.192 of the SPPS states that “*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, the recent case of Tullynagardy Wood in Newtownards demonstrates the continuing vulnerability of these woodlands under the current framework. Despite being identified as long-established woodland, development that would result in the unacceptable adverse impact on the site was recommended for approval by Council officials before planning permission was ultimately refused on appeal. Whilst the eventual outcome was

⁸ Woodland Trust, Back on the Map: An Audit of Ancient and Long-established Woodland in Northern Ireland (2007)

⁹ [Woodland Trust, Northern Ireland Ancient Woodland Inventory](#)

¹⁰ Woodland Trust, Back on the Map: An Audit of Ancient and Long-established Woodland in Northern Ireland (2007)

¹¹ Woodland Trust, Back on the Map: An Audit of Ancient and Long-established Woodland in Northern Ireland (2007)

welcome, the case highlights the need for stronger statutory protection rather than reliance on planning policy alone.¹²

We also support the protection of ancient trees protected by TPOs and the inclusion of a statutory buffer around ancient and long-established woodland. Development can affect these woodlands not only through direct loss, but also through indirect impacts such as root damage, soil disturbance, changes in hydrology, fragmentation, air pollution and other edge effects.

The Woodland Trust has advocated for larger buffer distances around ancient and long-established woodland. However, we recognise that the proposed 15-metre buffer reflects existing planning guidance in England and would represent a significant improvement on the current position in Northern Ireland.¹³ The inclusion of a buffer acknowledges that protecting the woodland itself may not always be sufficient to safeguard its ecological integrity and long-term condition.

Our primary concern is the prevention of the loss or deterioration of ancient and long-established woodland. Consideration could therefore be given to ensuring that the legislation clearly links restrictions on development to the protection of woodland from direct or indirect harm. In our view, development proposed either within ancient or long-established woodland, or within the buffer zone, should only be approved where it can be clearly demonstrated that it would not result in the loss or deterioration of the woodland. The key test should be the impact of the development on the woodland rather than just its location.

Consideration should also be given to clarifying how the 15-metre buffer is to be measured. For example, whether the distance is to be measured from the woodland boundary, tree canopy, root protection area or another defined point. In our view, this would be most appropriately addressed through regulations or supporting guidance to ensure consistency of application across Northern Ireland.

We note that the effectiveness of the proposed provision will depend upon a clear understanding of what constitutes "wholly exceptional circumstances". Consideration should therefore be given to defining this term in legislation or through supporting guidance. In our view, any proposal seeking to rely upon this exception should be required to demonstrate that harm to ancient woodland, long-established woodland or ancient trees is unavoidable and that the development is critically necessary such that no reasonable alternative exists.

Clause 9 - Permitted Development

¹² Planning Appeals Commission, Appeal Ref. 2025/A0104, W J Law Bespoke LLP v Ards and North Down Borough Council, decision dated 10 June 2026

¹³ [Department for Environment, Food and Rural Affairs, Ancient woodland, ancient trees and veteran trees: advice for making planning decisions](#)

Do you agree with Clause 9 of the Bill?

Yes

Please provide information to support your answer here:

Ancient woodland and long-established woodland are irreplaceable habitats. Given their rarity, significance and inability to be recreated once lost, we consider it appropriate that development capable of causing their loss or deterioration should be subject to proper consideration rather than proceeding automatically under permitted development rights.

Clause 9 complements the protections outlined 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.

It is important to note that the provision does not remove permitted development rights generally. Rather, it removes those rights only where development would result in the loss or deterioration of ancient or long-established woodland, or where development is proposed within the specified 15-metre buffer zone. The amendment therefore applies only to a narrow category of development affecting some of Northern Ireland's most environmentally significant habitats.

Our primary concern is the prevention of the loss or deterioration of ancient and long-established woodland. Consideration could therefore be given to ensuring that the operation of permitted development rights is linked to the protection of woodland from direct or indirect harm. In our view, permitted development rights should not apply where development would result in the loss or deterioration of ancient or long-established woodland, regardless of whether those effects arise directly or indirectly.

We also note that Clause 8 extends protection to ancient trees protected by a TPO. Consideration should be given to whether equivalent protections should also apply within permitted development. This would help ensure consistency between the protection afforded through the planning application process and that afforded where development would otherwise proceed under permitted development rights.

Clause 10 - Ecosystem Services

Do you agree with Clause 10 of the Bill?

Yes

Please provide information to support your answer here:

Clause 1 proposes to expand the basis upon which TPOs may be made by explicitly recognising ecosystem services. In our view, Clause 10 is a logical and welcome

complement to that provision as it provides greater clarity regarding the ecosystem services that may be considered when deciding whether a tree deserves statutory protection.

We support the proposed Schedule as it establishes a clear and structured framework for considering ecosystem services, grouping them into cultural, regulating and supporting services. This should assist councils, applicants and members of the public in understanding how ecosystem services can be considered within the TPO process.

The inclusion of a statutory Schedule is particularly important because it provides greater clarity regarding the ecosystem services that may be considered. Rather than relying on a broad or undefined concept, the Bill identifies specific categories of benefit, helping to ensure a more consistent approach across Northern Ireland.

The categories of ecosystem services set out in Schedule 1A are also consistent with established ecosystem services frameworks used internationally and reflected in the UK National Ecosystem Assessment, which recognises the cultural, regulating and supporting benefits provided by the natural environment.¹⁴ The proposed Schedule therefore builds upon a recognised evidence base rather than introducing a novel approach to the assessment of ecosystem services.

This provision should also help promote greater consistency in decision-making across Northern Ireland. Whilst professional judgement will continue to play a central role in the assessment of TPOs, the inclusion of a statutory schedule provides a clearer framework than reliance upon interpretation alone.

The Woodland Trust Northern Ireland also considers that the Schedule will help ensure that requests for TPOs based on ecosystem services are assessed against a clearly defined set of considerations. This should improve transparency and provide greater certainty regarding the environmental, social and ecological benefits that may justify statutory protection.

Clause 11 - Interpretation: 2011 Act

Do you agree with Clause 11 of the Bill?

Yes

Please provide information to support your answer here:

We welcome the inclusion of definitions relating to ancient woodland, long-established woodland and heavy standard trees. Clear and consistent definitions are important in ensuring the effective operation of the provisions contained elsewhere in the Bill.

¹⁴ UK National Ecosystem Assessment, *The UK National Ecosystem Assessment: Synthesis of the Key Findings* (UNEP-WCMC, 2011)

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 through the Woodland Trust's Back on the Map project. The Inventory defines ancient woodland as land that can be shown with a reasonable degree of certainty to have been continuously wooded since at least 1600 and long-established woodland as land continuously wooded since the First Edition Ordnance Survey maps of 1830-44 but not proven ancient.¹⁵ These definitions 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.¹⁶

We also support the inclusion of a 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. Whilst the Woodland Trust and Ancient Tree Forum have been at the forefront of developing guidance in this area, legislation should ideally avoid relying upon documents produced by named organisations that may be revised, replaced or superseded over time.

Consideration should therefore be given to establishing the criteria for identifying ancient trees through regulations rather than by direct reference to guidance produced by specific organisations. This would provide greater legal certainty, avoid reliance on guidance controlled by third parties and allow the definition to evolve in response to advances in arboricultural knowledge and practice.

The use of regulations would also provide an opportunity to consider the relationship between ancient and veteran trees. In arboricultural practice, veteran trees are mature trees that possess important habitat and structural features associated with age, such as hollowing, deadwood and decay. Ancient and veteran trees are often considered together because they share many of the same ecological, landscape and cultural characteristics. Whilst not all veteran trees are ancient, ancient trees are generally regarded as possessing veteran characteristics. Existing statutory approaches elsewhere, including the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024, recognise ancient and veteran trees within a common framework.¹⁷ Defining ancient trees through regulations would provide flexibility to reflect this

¹⁵ Woodland Trust, Back on the Map: An Audit of Ancient and Long-established Woodland in Northern Ireland (2007)

¹⁶ [Ancient Woodlands Ireland, Ancient Woodlands Ireland Project: Developing an All-Ireland Ancient Woodland Inventory](#)

¹⁷ [The Biodiversity Gain Requirements \(Irreplaceable Habitat\) Regulations 2024, Schedule 2 \(Ancient and Veteran Trees\)](#)

relationship whilst maintaining clarity and consistency in the application of the legislation.

Should the Committee consider revising this provision, we note that existing statutory definitions already adopted elsewhere may provide a robust alternative model. For example, the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024 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. Such an approach may provide a more robust legislative basis whilst achieving the same policy objective.

Clause 12 - Interpretation: 2015 Order

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

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

Do you agree with Clause 14 of the Bill?

Yes

Please provide information to support your answer here:

We recognise that several 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 to facilitate effective implementation.

However, we also recognise that an extended commencement period creates a risk that trees and woodlands which may benefit from the Bill's provisions could be lost or damaged before the legislation takes effect. This risk may be particularly relevant to provisions relating to the protection of ancient woodland, long-established woodland and ancient trees, which are irreplaceable assets.

We therefore encourage the Committee to consider whether a phased commencement approach may be more appropriate than a single commencement date for all provisions. Such an approach could allow those provisions requiring significant administrative preparation to come into force later, whilst enabling key protection measures to commence earlier where practical.

We also note that consideration should be given to the treatment of planning applications, appeals and other matters that are in progress at the point of commencement to provide clarity and avoid uncertainty regarding the application of the new provisions.

Overall, we support the principle of allowing sufficient time for implementation but consider that the timing of commencement should seek to strike an appropriate balance between administrative preparedness and the need to avoid the unnecessary loss of protected trees and woodlands before the legislation takes effect.