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Tree Protection Bill

NIAR 250-25

This Bill paper provides an overview of the Tree Protection Bill as introduced to the Assembly on 29 June 2026. The paper also identifies those areas within the Bill which may merit further consideration and, where relevant, compares similar provisions within GB and Ireland.

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Key Points

This paper supports scrutiny of the proposed Tree Protection Bill, which seeks to strengthen the protection of trees, ancient trees and ancient/long-established woodland in Northern Ireland by amending the Planning Act (Northern Ireland) 2011. It outlines the current legislative framework, compares approaches across the UK and Ireland, summarises the Bill's consultation process, and highlights key issues requiring further consideration.

Context

Northern Ireland has the lowest proportion of woodland cover in the UK and Ireland and very limited areas of ancient woodland. Concerns have also been raised regarding the effectiveness of the current Tree Preservation Order (TPO) regime. A 2023 Northern Ireland Public Services Ombudsman report found limited enforcement action in relation to reported breaches of tree protection legislation and recommended improvements in guidance, oversight and legislative clarity.

Trees in Northern Ireland are primarily protected through:

- Tree Preservation Orders (TPOs) under the Planning Act 2011;
- Conservation area protections;
- Planning conditions and agreements;
- Local Development Plans;
- Forestry legislation regulating tree felling.

Councils are responsible for making and enforcing TPOs. Existing provisions allow protection where it is considered expedient in the interests of amenity but do not explicitly address ecosystem services, ancient trees, or persons who indirectly facilitate breaches.

The Bill

The Bill introduces a number of significant reforms:

- Broadened grounds for TPOs - Councils would be able to make TPOs not only for amenity reasons but also to protect ecosystem services, including climate regulation, flood mitigation, air quality, recreation and wellbeing benefits. Ancient trees would receive explicit recognition within the TPO framework.
- Extension of liability - The Bill introduces offences for those who "cause or permit" damage to protected trees, bringing Northern Ireland more closely into line with England and Wales.
- Changes to provisional TPOs - Provisional TPOs would be deemed confirmed after six months unless revoked, rather than expiring automatically.
- Replacement tree requirements - Replacement trees would need to meet a defined "heavy standard" specification. Councils would be required to inspect replacement trees annually for five years. And powers would be created for councils to undertake replacement planting and recover costs where necessary.
- Tree Protection Map - A new Northern Ireland-wide digital mapping system would record TPOs, conservation areas and related information, improving public access and transparency.
- Protection of ancient and long-established woodland - Planning permission would generally have to be refused where development would damage such woodland or occur within 15 metres of it unless wholly exceptional circumstances could be demonstrated. And similar restrictions would apply to permitted development rights.

Consultation

A public consultation received 703 responses, with strong support for most proposals:

- 84% supported adding ecosystem services to TPO criteria.
- 91% supported introducing "cause or permit" offences.

- 90% supported replacement tree requirements.
- 91% supported stronger protections for ancient and long-established woodland.

However, respondents also raised concerns regarding:

- Increased costs and resource pressures for councils;
- Practical implementation and enforcement;
- Clarity of definitions such as "ecosystem services";
- Potential impacts on development and infrastructure projects;
- Responsibilities and costs for private landowners.

Other Jurisdictions

The paper concludes that several aspects of the Bill go beyond existing provisions elsewhere in the UK and Ireland, including:

- Explicit use of ecosystem services as a basis for TPOs;
- Specific statutory protection for ancient trees;
- Mandatory council inspections of replacement trees;
- A statutory national Tree Protection Map;
- Stronger statutory protection for ancient and long-established woodland, including mandatory refusal provisions and development buffers.

While other jurisdictions often protect ancient woodland through planning policy, the Bill would place several protections directly in primary legislation.

Potential areas for Consideration

The paper identifies several areas requiring further scrutiny:

- Whether councils have sufficient resources to administer and enforce the new regime;
- The likely increase in TPO applications and associated costs;
- How ecosystem services will be defined, assessed and applied consistently;
- The evidential threshold for identifying ancient trees and woodland;

- The practical operation of replacement tree duties and cost recovery provisions;
- The financial implications of the Tree Protection Map;
- The impacts of statutory 15-metre buffer zones;
- Potential impacts on infrastructure, development, farming and rural land use;
- Whether further financial, regulatory, equality or rural impact assessments are required;
- Whether a formal post-implementation review mechanism should be included in the Bill.
- Development of regulations and level of Assembly scrutiny and who takes priority over development of definitions i.e. ancient tree and standard heavy trees.

The Tree Protection Bill aims to strengthen tree and woodland protection in Northern Ireland. It would move beyond the current amenity-focused approach by recognising ecosystem services, strengthening enforcement powers, introducing new responsibilities for councils and landowners, and providing enhanced statutory safeguards for ancient trees and woodlands. However, the paper highlights substantial questions about implementation, costs, consistency, resource requirements and potential impacts on development which may require further detailed examination.

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1 Introduction

This paper provides information to support the consideration of the Tree Protection Bill.

It provides background context in relation to the current state of play of Tree Protection Orders (TPOs) and ancient woodland in Northern Ireland (NI). It also gives an overview of the current legislation for tree protection in NI and across other jurisdictions.

It provides an overview of the Bill and its development. While consideration points are made throughout the paper in blue boxes, the final section (s.6) takes a thematic approach with the consideration of the proposals of the Bill. As such, it provides comparisons with other jurisdictions where relevant and more detailed consideration points.

1.1 Background

The current regime for Tree Protection Orders (TPOs) began in 2011 under the Planning Act 2011 Chapter 3 (sections 121-128). The system has been operated and enforced by local planning authorities (or councils) since then.

The following Table 1 provides the number of active TPOs across councils and any associated breaches of TPOs. The figures were collected via correspondence between RalSe and the eleven councils¹. While most are for the period 2015 to February/March 2026, some start earlier, later or the timeframe was not provided.

¹ Information received via email in February/March 2026. See RalSe paper Review of Costs - Tree Protection Bill (NIAR 272-26) for more information

Table 1: Number of active TPOs and breaches of TPOs across councils

Council Area	No. of TPOs	Breaches of TPOs	
		Time period	Reported breaches
Antrim and Newtownabbey	85	April 2015 – present	62
Ards and North Down Borough Council	150	April 2015 – present	110
Armagh, Banbridge and Craigavon	83	Not reported	43
Belfast City Council	153	April 2015 – present	64
Causeway Coast and Glens Borough Council	106	2011-2014: 2015-2026: Total	11 22 33
Derry and Strabane	68 confirmed 1 provisional	Not reported	44
Fermanagh and Omagh District Council	55	April 2015 – present	12
Lisburn & Castlereagh City Council	78	April 2015 – present	17
Mid and East Antrim Borough Council	80	2024 – Present	2
Mid Ulster District Council	54	April 2015 – Present	14 ²
Newry, Mourne and Down	105	April 15 – Present	8 ³

² 12 Works to trees with a TPO; 2 Works to Trees in a Conservation Area

³ 4 No breach; 1 Remedied; 2 Not expedient; 1 On going

A 2023 Northern Ireland Public Services Ombudsman (NIPSO) report '[Strengthening our Roots](#)' states that concerns were raised that local councils appear to be reluctant to take enforcement action against identified breaches of TPOs. The report found:⁴

- From 2019-2022, 369 tree protection breaches were reported to councils.
- Of these, 52% found no breach, 22% found that it would not be 'expedient' to investigate the alleged breach any further, and 18% were remedied or resolved.
- Formal action⁵ was taken in one case with no prosecutions taken forward by councils in the three year period.

As a result of this, the NIPSO report has highlighted concern in the delivery of tree preservation orders across NI:

*The fact that only one council has taken formal enforcement action has the potential to support concerns about the approach of councils in this area, however this cannot be determined without review of the casework.*⁶

In relation to 'not expedient' cases, the report suggests that:

*it would be valuable for the Department and councils to examine the recorded considerations and develop an analysis of whether the reasoning is in keeping with best practice in enforcement guidance and council priorities.*⁷

The NIPOS report made a number of recommendations including:

- the need for procedural and good practice guidance;

⁴ Northern Ireland Public Service Ombudsman, 2023. Available at: [NIPSO Overview Report - Strengthening Our Roots - Tree Protection in the Planning System.pdf](#)

⁵ The issuing of an Enforcement Notice or the service of a Breach of Conditions Notice. Failure to comply with either constitutes an offence.

⁶ Northern Ireland Public Service Ombudsman, 2023. Available at: [NIPSO Overview Report - Strengthening Our Roots - Tree Protection in the Planning System.pdf](#) p.41

⁷ Ibid p.42

- the set-up of a Tree Forum;
- council review of TPOs;
- regional map of TPOs;
- best practice approach for investigating reports of TPO breaches; and
- the need for further legislation to provide the necessary clarity and independence in the decision-making process.

However, the NIPSO report does not appear to specifically mention other proposals in the Bill including: the need to recognise ecological services (as described under the Bill); the extension of liability to ‘cause or permit’; or ancient woodlands.

Members may find it of interest to ask for further detail about:

- The number of breaches over time, whether these have been increasing or decreasing;
- The nature and severity of breaches;
- Whether councils feel the provisions in the Bill will help them further with identifying, assessing, issuing and reporting breaches?
- Whether there are plans for more detailed review of council TPO processes, as suggested in the NIPSO report (similar to the English review conducted by the [Arboricultural Association - Tree preservation orders: Are local authorities effective in protecting England’s valued trees?](#) in 2025 – detailed p.23 of this paper).
- Whether a more comprehensive review would help determine if the issues addressed under the Bill require new primary legislation or resources, guidance and training for the improved implementation and enforcement of existing legislation?

- Whether any training and guidance provisions for councils have been considered to help improve delivery by councils?

1.1.1 Current state of ancient woodland in NI

While Northern Ireland has had a slight increase of 2.8% from 1998 to 2024 of tree and woodland cover, it has the lowest levels in the UK and Ireland⁸ as shown in Table 2.

Table 2: Woodland area by UK country in 1998, 2020 and 2024 (million hectares) and in brackets as a percentage of total land area.

Year	England	Northern Ireland	Scotland	Wales	UK Total
1998 ⁹	1.24 (9.5%)	0.08 (5.8%)	1.30(16.6%)	0.30(14.5%)	2.92(12%)
2020	1.31 (10%)	0.121(8.7%)	1.47(18.8%)	0.31(14.9%)	3.21(13.2%)
2024	1.34(10.3%)	0.12 (8.6%)	1.50(19.4%)	0.31(15%)	3.28(13.5%)

Source Woodland Trust, State of the UK’s Woods and Trees 2025¹⁰

The latest figure for Ireland forest cover is for 2022 at 11.6%.¹¹

NI also has the least amount of ancient woodland across the UK as shown in Table 3 with 0.02% of land area.

⁸ Woodland Trust [Have your say on tree protection in Northern Ireland - Woodland Trust](#)

⁹ 1998 is selected as the baseline year because figures for England, Wales and Scotland have been revised to produce estimates that are consistent with subsequent data from the National Forest Inventory, which are therefore comparable to 2020 and 2024 figures.

¹⁰ Woodland Trust, [State of the UK’s Woods and Trees 2025](#) (p.6) and Forest Research, Forest Statistics 2024 [Ch1_Woodland-WA-amendment.pdf](#) (p.5)

¹¹ Ireland’s National Forest Inventory 2022, [chapter-2-area.xls](#) (Tab 2.1.1). Available at [National Forest Inventory Results Data \(2022\)](#).

Table 3: Estimated area (ha) of ancient woodland across UK countries and % of total land area.

Woodland type	England	NI	Scotland	Wales	UK
Ancient woodland	364,200 (2.8%)	2,700 (0.2%)	148,150 (1.9%)	94,940 (4.6%)	609,990 (2.5%)
LEPO ¹² and 'other Ray' in Scotland		7,270 (0.5%)	204,610 (2.6%)		211,880 (0.9%)
Total	364,200 (2.8%)	9,970 (0.7%)	352,760 (4.5%)	94,94 (4.6%)	821,870 (3.4%)

Source: Woodland Trust, State of the UK's Woods and Trees 2025¹³

According to the Woodland Trust [Back on the Map - Ancient Tree Inventory](#)

- Woods that could be classified with any degree of certainty as ancient were many times scarcer in NI than in the rest of the UK, covering only 0.04% of Northern Ireland's land area.
- More than one-eighth of ancient and long-established woodland has been cleared in the last 40 years .

According to the Bill's [Explanatory and Financial Memorandum](#) only 0.04% of woodland in Northern Ireland is ancient, with tree cover being only 8.6%.

Members may wish for clarity around:

- the two 0.04% figures above, one which refers to percentage of NI's land area cited by the Woodland Trust, and one which refers to percentage of woodland in NI as cited in the EFM.
- where the EFM figure came from as there does not appear to be a reference in the EFM.

According to the Explanatory and Financial Memorandum (EFM), the Woodland Trust reports that around 13% of Northern Ireland's ancient and long-

¹² Long established woodland of plantation origin.

¹³ Woodland Trust, [State of the UK's Woods and Trees 2025](#) Table 3(p.7)

established woodland that survived to the 1960s has since been lost, with 273 woods cleared.¹⁴ However, this figure is from 2010 and there does not appear to be a more recent figure.

Further detail and mapping of ancient woodland is provided in section 6.9 (p.76)

A comparative figure for current ancient woodland cover in Ireland appear to be more difficult to identify:

- According to National Parks and Wildlife Service (NPWS) - [A provisional inventory of ancient and long-established woodland in Ireland](#) - research by Rackham (1995)¹⁵ used the Civil Survey (1654-1656) and the first edition six inch to the mile Ordnance Survey (OS) maps (1830-1844) to estimate that in 1995 only 0.2% of the country was covered by pre-1660 woodland and much of this was likely to have been lost since to agricultural clearance and modern forestry¹⁶. A more comprehensive and current figure does not appear to have been produced as yet.
- Other work such as [Ancient and Long-established Woodland Inventory 2010](#) provides the number of ancient woodland sites, but not percentage cover. Also provisional in nature as it investigates only a subset of Ireland's woodland resource and available historical documents.¹⁷
- Native woodland Ireland provides figures for woodland that is "native" and long-established (2%), but not necessarily "ancient" by the definitions used in NI and other UK jurisdictions.¹⁸
- An [Ancient Woodlands Ireland](#) project is currently underway from 2024-2028 to create an updated all-island inventory of ancient and long-established woodland in Ireland.

¹⁴ Tree Protection Bill [Explanatory and Financial Memorandum](#) (P.3 paragraph 15)

¹⁵ Rackham (1995) Looking for ancient woodland in Ireland. See NPWS - [A provisional inventory of ancient and long-established woodland in Ireland](#) p.3

¹⁶ NPWS - [A provisional inventory of ancient and long-established woodland in Ireland](#) p.3

¹⁷ DHLGH [Ancient and Long-established Woodland Inventory 2010 - Dataset - data.gov.ie](#)

¹⁸ [Native Woodlands Ireland: Just 2% Cover and Recovery Plans](#)

2 Existing legislation

The following sections provide an overview of some the main areas of existing legislation in relation to tree protection in Northern Ireland.

2.1 Tree Preservation Orders

One of the main pieces of legislation for tree protection in Northern Ireland is provided under the [Planning Act \(Northern Ireland\) 2011](#) (s.122) and the associated [Planning \(Trees\) Regulations \(Northern Ireland\) 2015](#) in relation to Tree Preservation Orders (TPOs).

Where a council feels it is 'expedient in the interest of amenity' it may make a TPO which prohibits the cutting down, topping, lopping, uprooting, willful damage or destruction of trees.¹⁹

TPOs may be used on such trees, groups of trees or woodlands as may be specified in the TPO. [According to the Department for Infrastructure \(DfI\) \(originally DOE\) Guidance](#) and [Belfast City Council \(BCC\) Guidance](#), TPOs can cover anything from a single tree to woodlands. Normally, only trees over 3.5m in height are considered for a TPO. However, a Woodland TPO protects all trees within the defined area, including seedlings and saplings i.e. trees less than 3.5m in height are not excluded.

According to guidance above, hedges, bushes and shrubs will not be protected under a TPO.

Similar to England and Wales²⁰, if a tree is dead or dangerous, the 2015 Regulations (Schedule 3) allow work without consent.

Section 126 of the Planning Act (Northern Ireland) 2011 outlines penalties for contravening a TPO. These may include **summary conviction and a fine up to £100,000, or level 4 on the standard scale. And to a “fine” on conviction**

¹⁹ Planning Act 2011 s.122

²⁰ [The Town and Country Planning \(Tree Preservation\)\(England\) Regulations 2012](#) (Regulation 14)

on indictment. When deciding a fine the court will consider any financial benefit which accrued or is likely to accrue due to the offence²¹.

Initially a Provisional TPO (s.123) may be issued by the council to take effect from the date specified, lasting for six months. During this time the council carries out a detailed assessment and may issue a full TPO.

The process for applying and deciding a TPO is described in both the DfI/DoE and BCC Guidance. It should be noted that the DfI guidance was published in 2011 and therefore predates the move of planning responsibilities to local councils in 2015. It refers to the Department and local planning offices for making decisions on TPOs. Under the current system, this is now performed by the local council planning authorities, as described in the BCC Guidance. According to the guidance documents, works may be carried out on trees protected by a TPO, provided consent is applied for and given by the council. For example, Belfast City Council (BCC) offers an [online consent form](#)²².

Considerations

Off the back of responses (to a call for evidence in February 2021) for greater powers to councils in relation to conservation areas and trees; DfI recommended in its [Review of the Implementation of the Planning Act](#) (p.7, 30, 65) in 2021:

The Department will review current requirements around TPOs with a view to bringing forward proposals to permit councils to vary or revoke TPOs. The Department will also consider whether there is a need for guidance to clarify certain TPO terms or definitions.

- Has clarity been sought on this recommendation and whether DfI intends to bring anything forward?
- And is there clarity on whether there will be any overlap with the proposals of the Bill?

²¹ [Tree preservation | nidirect](#)

²² BCC [Guide to protected trees](#)

2.2 Conservation areas:

Under s.127 of the Planning Act 2011 and 2015 Regulations, trees within a conservation area are provided the same protection as a TPO. Exemptions are provided in Regulation 9 of the [Planning \(Trees\) Regulations \(Northern Ireland\) 2015](#) and include:

- Cutting down, uprooting, or topping of a tree whose diameter does not exceed 75mm;
- Cutting down or uprooting of a tree for the sole purpose of improving the growth of other trees, provided the diameter does not exceed 100mm.

Guidance states that any works to be carried out to trees in a conservation area must apply to the local council planning office. Anyone can apply for approval. However, consent must be sought from the owner to enter their land and carry out the works²³.

2.3 Planning Conditions

Under s.121 of the Planning Act 2011, a condition on a grant of planning permission may provide for the preservation of trees. According to [BCC Guidance](#), conditions may stipulate that an existing tree or trees must be retained, which is often referred to as a 'retention condition'.

Under s.152 of the Planning Act 2011, a breach of planning conditions may result in a fine up to level 3 on the standard scale (£1000), should a breach of condition notice, issued by the council, not be complied with.

²³ DfI [Tree Preservation Orders - A Guide to Protecting Trees](#) (p.5/6) and BCC [Guide to protected trees](#)

2.3.1 Planning Agreements

S.76 of the Planning Act 2011 provides for planning agreements. This is a legally binding agreement between a council (or the Department) and a landowner/developer.²⁴

An agreement may mean that development can be permitted whilst potentially negative impacts on land use, the environment and infrastructure could be reduced, eliminated or mitigated²⁵.

The use of agreements is not a replacement for planning conditions where they are more appropriate²⁶.

2.4 Local Development Plans: Plan Strategy

The [DfI/DoE Guidance](#) states that where a council adopts its Plan Strategy, guidance contained within the DfI guidance document (mentioned throughout this paper) will cease to have effect and will not be material from that date, whether the planning application has been received before or after that date.

Under the [Planning Act 2011](#), each council is required to prepare and adopt a Local Development Plan (LDP) for its district. The LDP is made up of two development plan documents (DPD): the Plan Strategy and the Local Policies Plan. When adopted these DPDs will replace the old development plans adopted under the [Planning \(Northern Ireland\) Order 1991](#).

LDPs are to be developed in accordance with the overarching [Strategic Planning Policy Statement](#) (SPPS). The importance of protecting trees and woodland through planning decisions and conservation areas etc is mentioned throughout the SPPS and this is to be taken into account in the development of LDPs.

²⁴ DfI [Development Management Practice Note 21: Section 76 Planning Agreements](#)

²⁵ *ibid*

²⁶ *ibid*

It appears from councils' websites that not all councils have adopted their Plan Strategy yet. However, as an example, this paper looks at some examples of the adopted Plan Strategies in terms of their consideration of tree protections.

Fermanagh and Omagh Plan Strategy makes reference to the protection and retention of trees, special trees and woodlands throughout its policies. To ensure that full account is taken of existing trees, it refers to best practice guidance [Trees and Development \(2003\)](#), co-sponsored by the Department, the Forest of Belfast and the Construction Employers' Federation. It also refers to [British Standards BS 5837 \(2012\) 'Trees in Relation to Design, Demolition and Construction'](#) for good practice recommendations to ensure that trees are appropriately and successfully retained when a development takes place.

A [consultation](#) on BS 5837 (2012) was carried out in October 2024 which sought to upgrade the guidance from 'recommendations' to a more enforceable Code of Practice.²⁷

Belfast City Council's adopted [Plan Strategy](#) recognises the importance of the protection of trees and woodland:

In this regard, trees and woodland form part of our natural heritage and, in particular, woodlands are an important habitat type that will also be considered under the LDP natural heritage policy

In its policy TRE1- Trees, it states:

*The council will seek to protect existing trees from new development, particularly those that are of visual, biodiversity or amenity quality and significance, and there will be a presumption in favour of retaining and safeguarding trees that make a valuable contribution to the environment and amenity.*²⁸

²⁷ [Revision of BS5837: Trees in Relation to Design, Demolition, and Construction – What you need to know . - AWA Trees](#)

²⁸ BCC [Plan Strategy](#) p.259

Lisburn and Castlereagh Council explain the importance of tree and woodland protection through use of TPOs, conservation area etc in their adopted [Plan Strategy](#) (p.120) and [Supplementary Guidance](#) (p.46).

2.5 Forestry Act (NI) 2010

The Forestry Act 2010 is concerned primarily with the felling of trees. Part 3 of the [Forestry Act 2010](#) places restrictions on the felling of trees on land 0.2 hectares or more, unless a licence is granted by the Department. Certain exemptions are provided in s.15, which include: for the purposes of development authorised by planning permission, where a TPO is in place, or within a conservation area.

2.6 High Hedges Act (NI) 2011

The definition of a hedge under s.2 of the [High Hedges Act](#) includes trees that are two or more evergreen trees in a linear row. According to [advice given by Belfast City Council](#):

Such trees could become subject of a High Hedges Notice that requires a landowner to top them should the council consider those trees to be a barrier to light, even if they are protected. Trees that are subject to compliance with any statutory obligation that is necessary for the prevention or abatement of a nuisance, such as a High Hedges Notice, are exempt from protection under a TPO or conservation area.

However, this does not mean that trees within such a row are not considered to be trees and exempt from protection within a conservation area or a TPO. Such trees are only considered to form

a hedge or part of a hedge for the purposes of, and if they are subject to, a High Hedges Notice²⁹.

Further detail is provided in guidance by Causeway Coast and Glens which explains that:

A complaint cannot be made under the Act about single trees or shrubs, whatever their size...

...The two or more trees or shrubs do not have to form a straight line. As long as they are roughly in line, they will be caught. A group of trees forming a woodland area of 0.2 hectares or more is specifically excluded from the Act. The area of 0.2 hectares only relates to an area of woodland. It does not relate to the area of a garden or the area occupied by a long single line of trees.³⁰

Considerations

This implies that single trees are not covered by the High Hedges Act. While a TPO or conservation area protects trees from being cut or altered, if a line of 2 or more trees is considered a nuisance under the High Hedges Act, a notice can be issued to cut back the trees, regardless of whether the trees are protected or not.

- Will proposals under the Bill interact with the High Hedges Act in the same way?
- Will there be clarification/guidance given as to how these two pieces of legislation interact, for homeowners and councils?

²⁹ BCC [Guide to protected trees](#)

³⁰ CCG [High Hedges Act \(Northern Ireland\) 2011 – guidance for hedge owners](#) (p.5).

3 Other jurisdictions

The following section outlines the main pieces of legislation for TPOs in other UK jurisdictions and Ireland. See section...of this paper for a comparison with the Bill.

3.1 England

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. It prohibits the cutting down, topping, uprooting etc lopping of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.³¹

The law on Tree Preservation Orders is in [Part VIII of the Town and Country Planning Act 1990](#) as amended and in the [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#) which came into force on 6 April 2012.

One of the main differences with NI's Planning Act 2011, is that it is an offence to 'cause or permit' the willful cutting down, uprooting, topping, lopping or destruction of a tree under s.198 of the Town and Country Planning Act 1990 (England and Wales). Therefore extending liability to those who indirectly enable a breach of a TPO e.g. landowners, contractors etc.

The Welsh Government has published guidance on [Protected trees: guidance on tree preservation orders](#).

In England, trees in a [conservation area](#) that are not protected by a TPO are protected by the provisions in [section 211 of the Town and Country Planning Act](#)

³¹ [Tree Preservation Orders and trees in conservation areas - GOV.UK](#)

[1990](#). These provisions require people to notify the local planning authority, using a '[section 211 notice](#)'. For further information see [Tree Preservation Orders and trees in conservation areas - GOV.UK](#)

Fines for TPO breaches under s.210 of the Town and Country Planning Act 1990 include:

- For serious offences – fine up to £20,000, or statutory maximum (Magistrates court); or unlimited fine in Crown Court.
- For lesser offences – fine up to level 4 on standard scale.
- Courts must consider any financial benefit gained.

- The above fines, which are similar to Scotland, compare to £100,000 summary conviction and unlimited fine on indictment (determined by Courts) in the NI Planning Act 2011 s.126 (as detailed in s.2.1 (p.14) of this paper).
- Members may wish to consider how lesser offences under the Bill might be dealt with- is it by summary conviction only?
- Ireland creates an offence, but does not set distinctive amounts in the Planning and Development Act 2000 (s.205). Prosecution is under general planning enforcement provisions s.151 and 156.

Under the [Forestry Act 1967](#), and related regulations, the felling of trees generally requires a licence from the [Forestry Commission](#).

According to a [House of Commons Library Paper](#), concerns were expressed around the protection of established street trees, where instances had occurred

with the felling of street trees during road maintenance schemes³². As a result, measures for the protection of street trees were included in the [Environment Act 2021](#).³³

Effectiveness of TPOs

A review was conducted by the [Arboricultural Association - Tree preservation orders: Are local authorities effective in protecting England's valued trees?](#) in 2025.

Being one of the first systematic reviews of the TPO system, it surveyed 70 arboricultural professionals across the public and private sector and analysed FOI data from 58 local planning authorities (LPAs).

It is not clear whether this is a representative enough percentage, but perhaps gives an indication of the views around the effectiveness of TPOs in England.

Professionals were asked to rate from low (1) to high (5) their opinion on governing legislation and regulations, LPA performance in TPO creation and enforcement, options for improvement. Some of the key findings include:

- The effectiveness and enforceability of legislation and regulations are considered unsatisfactory by industry professionals.

³² House of Commons Library (2022 [Powers and protections for trees and hedges in the community](#) (p.16).

³³ For further information see Under the 25 Year Environment Plan, the UK Government has published an Urban Tree Manual: [The Right Tree in the Right Place for a Resilient Future. Advice to local authorities: evidencing exceptions to the need for a felling licence: operations note 61 - GOV.UK](#) [Highway tree management: operations note 51 - GOV.UK](#)

- The route to securing penalties was highlighted as potentially prohibitive, with enforcement potential of legislation considered low.
- LPA performance was given lowest ratings with ineffective investigation of contraventions considered the greatest weakness in the current enforcement system.
- This was supported by the returns from the FOI requests, which revealed over half of all registered contraventions lapsed without determination. Of those investigated, only 1.46% of cases were pursued to court.
- Insufficient resources to create and manage TPOs were highlighted. With management of TPO documentation by LPAs considered a poorly executed function by respondents.
- Increasing LPA resource received the highest rating for improving the current system.

3.1.1 Heritage Trees Bill

In December 2023, Baroness Young of Old Scone brought forward a [Heritage Trees Private Members Bill](#). The purpose of the Bill was to provide protections, similar to TPOs, for trees listed as a 'heritage tree' by Natural England, on the grounds of exceptional historical, landscape, cultural or ecological importance. The Bill consisted of six clauses which required:

- Natural England to create, maintain and publish a list of heritage trees, to which anyone could nominate a tree to be added by writing to Natural England;
- Planning authorities to make a heritage tree preservation order for trees on the list, within one month of notification.

- Planning authorities to report to Natural England on the condition and security of heritage trees listed, one year after a listing, and every five years thereafter.

However, the Bill did not progress past 1st Reading³⁴.

3.2 Scotland

In Scotland, current provision for TPOs is made under [Section 160 of the Town and Country Planning \(Scotland\) Act 1997](#) and associated regulations.³⁵ The Scottish Government has also published guidance on TPOs in [Planning Circular 1/2011: Tree Preservation Orders](#).

The Scottish [National Planning Framework](#) (NPF4) has a specific policy³⁶ on the protection and enhancement of new and existing trees, forest, woodland, including ancient woodlands and veteran and ancient trees, when development is being considered.

Further information on protections via TPOs, conservation areas and planning conditions can be found here: [Tree Protection | Trees, woodland and forestry | The Highland Council](#)

3.3 Ireland

Tree Preservation Orders (TPOs) may be made under Section 205 of the [Planning & Development Act 2000](#). A TPO can apply to a tree, trees, group of trees or woodland. The making of a tree preservation order is a function of the County Council.

Similar to NI, the [Tree Council of Ireland](#) advises that planning conditions can also be used to provide protections and ensure necessary measures are

³⁴ [Heritage Trees Bill \[HL\] - Parliamentary Bills - UK Parliament](#)

³⁵ [Town and Country Planning \(Tree Preservation Order and Trees in Conservation Areas\) \(Scotland\) Regulations 2010](#)

³⁶ Scottish [National Planning Framework 4](#) Policy 6 (p.44)

adopted e.g. retention of specific trees etc. And Development Plans produced by local authorities may include objectives for preserving trees and woodland.

The Planning and Development Act 2000 does not appear to have the same level of detail on the face of the Act, as the other UK jurisdictions. It requires landowners and the planning authorities to enter into bespoke agreements under s.205 for the management of trees (this may include replanting, assistance, financial assistance etc).

4 Overview of the Bill

The following section provides a brief overview of the provisions. For more detail please refer to the accompanying [Explanatory and Financial Memorandum](#) which gives an overview of the clauses.

The Bill has 15 clauses and one Schedule. It amends the Planning Act 2011 so as to:

- Broaden the criteria for TPOs to safeguard the environmental, climate, social and health, and historical benefits that trees and woods provide. This allows councils to make TPOs in the interests of ecosystem services (Clause 1, 10 and Schedule), and ancient trees (Clause 1).
- Bring NI in line with the rest of the UK by extending prosecution to those who may 'cause or permit' actions against trees (Clause 1 and 3). Currently the Planning Act 2011 only covers direct action.
- Remove the expiration of a provisional TPO after 6 months, allowing it to be deemed consent (Clause 2).
- Introduce new requirements for replacement trees (Clause 4) to include council inspections (Clause 5) and cost recovery measures (Clause 6).

- Develop a new online Tree Protection Map (TPM) (Clause 7).
- Give greater protection to ancient and long established woodland including planning refusal (Clause 8) and how they are to be treated under permitted development rights (Clause 9).
- Provide new definitions including heavy standard tree, ancient tree, ancient woodland, long-established woodland (Clauses 11 and 12).
- The Bill amends The Planning Act 2011 and the the Planning (General Permitted Development) Order (Northern Ireland) 2015 as stated in Clause 13.
- The provisions come into operation twelve months after the day on which the Bill receives Royal Assent.

4.1 Consultation

According to the [Summary of Responses](#) to the consultation, a public online consultation was held 27 November 2024 to 9 March 2025 and made public.

The consultation received 703 responses, mostly by individuals with 638 (91%) and 65 organisations (9%). A list of the organisations is provided in Annex A of the Summary of Responses. Examples of the type of organisations who responded include (and are not limited to): local government, environment organisations/groups, woodland and forestry industry/groups, estates and Trusts, heritage organisations, community groups, farming and farming forestry.

The Royal Town Planning Institute and Construction Employers Federation appeared to be the sole planning and construction industry representatives, along with local councils.

There did not appear to be any responses from the legal industry; the Bill proposals may include the need for legal advice for councils when performing actions under the Bill, and legal action for cost recovery etc.

4.1.1 Responses

This section provides a brief summary of the responses. Please refer to the [Summary of Responses](#) for more detail.

Of the respondents, 68% were aware of TPOs for tree protection, while 32% were not. And 52% felt TPOs are 'not so' or 'not at all' effective.

In summary responses were mostly in agreement with:

- Adding ecosystem services to the criteria for TPOs (84%)
- Adding 'cause or permit' to offences (91%)
- Replant and maintain a tree (90%)
- Creation of a new 'heritage tree' designation for oldest and most significant trees (90%). Note: this has been changed to 'ancient tree' under Clause 1 of the Bill.
- A criteria based on ecological value, then age, historical and cultural significance.
- Support for landowners with 'heritage trees' – however this was not carried over into the Bill.
- Restricting permitted development rights from sites with ancient and long-established woodland (91%) with developers to prove there are no other viable development options (90%).
- Costs for implementation and enforcing the Bill are acceptable when balanced with the benefits (75%). ***It might be of interest to find out whether costs were provided as part of the consultation in order for respondents to make informed responses.***
- Most felt the Bill proposals will benefit environment, then biodiversity, climate, public health.

Examples of some of the issues raised during the consultation include:

- Some felt that TPOs are effective in protecting trees and can have a negative impact on the economy.
- Difficulties with maintaining trees with a TPO which may become a risk to life and property.
- Costs of resourcing a new system. To which the Member, at the time, was considering the ringfencing of fines from a breach of a TPO to help

councils mitigate costs³⁷. However this proposal does not appear to be on the face of the Bill. ***Members may wish for more detail on this, whether it was dropped altogether and not carried forward to the Bill, or to come through regulations?***

- Concerns around the impact on council resources of introducing 'ecosystem services' as a criterion. ***Members may want further detail from the Member on how this will this be addressed?***
- That the addition of 'ecosystem services' as a term is a separate issue to TPO breaches. To which the Member suggested this would be addressed through other proposals³⁸. ***Perhaps members would like further detail and clarity on this?***
- Some councils felt that the existing criteria provides an umbrella in which ecosystem services can already be considered.
- Some respondents were of the opinion that the Planning Act 2011 already provides 'cause and permit' in a circumstance where a TPO has been breached. The Member explains that the wording of the Planning Act s.126 (1) does not include the specific words. ***Perhaps Members may wish for legal advice and clarity on this, and whether without the actual words, may this still be inferred?***
- That the proposal may have unintended consequences of encouraging the felling of trees because a replacement tree can be replanted. The Member advised that the requirement to replant does not replace further prosecution. ***Perhaps Members may wish for further clarity on this?***
- The consultation suggested a Heritage TPO (HTPO), separate to a TPO. Responses raised issued with confusion between the two. That with two separate mechanisms the resource pressures would greatly outweigh the benefits. It was felt any designation should be done centrally. Private land owners felt it would restrict management of their own land, eroding private property rights.. And that most are motivated to look after trees on their own property already. ***It appears that an HTPO was not***

³⁷ [Consultation Summary of Responses - Tree Protection Bill v2](#). p.6

³⁸ [Consultation Summary of Responses - Tree Protection Bill v2](#). p.7

brought forward into the Bill, however Members may wish for further detail on this.

- Most council responses highlighted the need for significant financial resource and a clear definition for the donation of Heritage Trees. And that support for private landowners with heritage trees on their property is essential, with funding allocated to give landowners practical assistance. However, instead of Heritage Trees, the Bill provides for Ancient Trees.

Perhaps Members may wish to find out from stakeholders if the same issues apply to ancient trees under the Bill. And if so, how the Member proposes to address them?

- Some felt that buffer zones would hinder the development of critical infrastructure due to existing restrictions, which could lead to an increase in applications(Also see s.6.8.1). ***Members may wish for further clarity on this from stakeholders and the planning sector?***
- Others felt that protection for ancient woodland already exists under existing TPOs. However the Member explained that TPOs are tools focused on individual trees or small groups, not entire woodlands.

However it might be of interest to find out from planning authorities whether they feel existing TPOs are in fact limited in this way? Are there any woodlands protected under TPOs currently?

- Some councils felt that Local Development Plans (LDPs) could be used to protect these areas. However the Member felt that the difference in stages on the development of LDPs means there is no guarantee councils would adopt the same approach. ***Members may wish to ask the Member whether he has had communication with each of the councils to clarify this? For example, s.2.4 of the paper considers some examples of LDPs.***

Further suggestions made by the respondents include:

- The creation of a single online map of all TPOs in NI. As a result the Member updated proposals to include this³⁹.

³⁹ [Consultation Summary of Responses - Tree Protection Bill v2](#), p.6

- The term ecosystem services was not widely understood and too vague, and could be used inappropriately. Therefore it was agreed that a schedule outlining the specific ecosystem services would be considered. ***However, the Schedule does not provide a definition of what each of the services mean. Members may want to consider the Schedule further and whether stakeholders feel the schedule provides enough clarity.***
- Councils suggested that the lack of definition of ‘amenity value’ provides useful flexibility as it allows a broader range of trees to be considered for protection. However, some respondents suggested that regional DfI guidance should be revised to set out how ‘amenity’ could be interpreted to provide consistency. The Member suggested writing it into legislation⁴⁰, however it does not appear on the face of the Bill. ***Members may wish for further clarity on this from the Member. And to find out from Stakeholders whether they agree with the need for a definition (via guidance or legislation), or no definition at all.***
- One recommendation was made that the replacement of trees should be semi-mature. That newly planted trees do not compensate for loss of mature trees. . ***Members may wish to clarify whether the proposal was based on one recommendation? Members may wish to seek views from other stakeholders on the introduction of this proposal?***
- Advisory services should be provided free of charge, and that landowners could potentially be signposted to information on council websites. It was also suggested that there should be guidance on insurance, as ancient trees can pose health and safety risks for landowners⁴¹. ***Members may wish for further details on this, whether this was carried forward, and where resources would come from?***

⁴⁰ [Consultation_Summary_of_Responses_-_Tree_Protection_Bill_v2.pdf](#) p.7

⁴¹ ⁴¹ [Consultation_Summary_of_Responses_-_Tree_Protection_Bill_v2.pdf](#) p.12

Further stakeholder engagement was had with council officials and the environmental NGO sector of which further details are provided in the [Summary of Responses](#). Proposals presented at Tree Officers Forum, Future of Treescapes Project and All Party Group on Climate Change.

The [Explanatory and Financial Memorandum](#) details that the Member has also made contact with the Construction Employers Federation to seek their views on the Bill⁴². ***Members may wish for further detail on this?***

The Member responsible for the Bill made contact with the Infrastructure Minister in relation to the proposal on two occasions. Issues raised by the Infrastructure Minister included:

- The resources required to progress some proposals.
- The removal of ancient and long-established woodland from permitted development rights.
- Ability to gauge the financial and practical impacts on stakeholders.
- Whether aspects around mapping are the responsibility of DfI or more a function of councils under local development plans.
- How the proposals would impact the removal of trees from storm damage or disease especially ash die back.
- And how the proposals would impact the Department's routine maintenance on trees to ensure provision of lighting, power and communications network⁴³.

Members may wish for further clarity and update on the above issues raised by the Infrastructure Minister.

⁴² [Consultation_Summary_of_Responses_-_Tree_Protection_Bill_v2.pdf](#)

⁴³ *ibid*

Considerations

Some considerations have already been mentioned throughout the this section in bold. However the following box provides some additional ones:

- Are Members happy with the range of representations made to the consultation? Perhaps there are further bodies the Committee would want to hear from?
- The consultation sought views on support for landowners with heritage trees, however this was not carried forward into the Bill and perhaps Members would like further clarity on this?
- The consultation asked about restricting permitted development rights (PDRs) from sites with ancient and long-established woodland. Is this the same or different to removal of PDRs under the Bill?
- Was the proposal for a 15m buffer zone consulted on? Or was it added as a result of the consultation? Members may wish for more detail on the origins of this proposal and whether all stakeholders have had a chance to comment.
- The consultation asked for views on the cost versus the benefits of the proposals. Was any information provided in the consultation on the potential costs?

4.2 Financial Implications

The majority of responses (75%) to [question 14 of the consultation](#), in relation to costs, found it acceptable for a cost for implementing and enforcing the Bill provided it was balanced with benefits. However some (15%) were unsure whether a cost would be acceptable. It did not appear that any information on projected costs were provided in the consultation. Some responses felt the Bill would put greater administrative burden on council planning services. And councils expressed that adequate funding would need to be provided to ensure consistent and effective enforcement. Around 9% felt that no cost would be acceptable because there are greater priorities for the NI Executive. And that proposals would block the development of houses and other important infrastructure⁴⁴.

According to the [EFM](#), the successful implementation and enforcement of the Bill is contingent on available resources for local councils. Correspondence between the DfI Minister and the Member suggested that no financial and practical impacts on the Department, local government or other stakeholders could be gauged⁴⁵.

Under the section of the EFM dealing with financial effects of the Bill the following observations are included:

- **Paragraph 28** - *The Bill will likely have **modest**, but ongoing implications for the public purse. The scale of such impact would be highly dependent on its implementation, including enforcement.*
- **Paragraph 29** - *While the Bill intends to both strengthen environmental protection and provide long-term public benefits, it will place additional administrative, staffing and enforcement pressures on public bodies, particularly local councils and the Department for Infrastructure.*
- **Paragraph 30** - *In the short to medium terms, costs would be expected to arise from establishing new regulatory processes, training staff,*

⁴⁴ [Consultation Summary of Responses - Tree Protection Bill](#) (p.15)

⁴⁵ [Consultation Summary of Responses - Tree Protection Bill](#) (p.4) and [Tree Protection Bill Explanatory and Financial Memorandum](#)

handling applications and appeals, monitoring compliance, and taking enforcement action where required. Those costs could vary significantly between councils, depending on, for example, existing capacity, tree cover and development pressures.

- **Paragraph 31** - *New and expanded responsibilities on councils and the Department include administering tree protection measures, assessing applications and consent requests, maintaining records, monitoring compliance and undertaking enforcement action where breaches occur. As a result, administrative and staffing costs are likely to be the most immediate and tangible public purse impacts. The Sponsor is keen to engage further on how to deliver the legislation in a proportionate and cost-effective manner.*
- **Paragraph 19** - *The Bill itself has no direct financial effects. The financial effects of the regulations made under the powers set out in the Bill will be assessed separately.*

RaISe paper Review of Costs - Tree Protection Bill (NIAR 272-26) considers the costs of implementing the Bill, under what it describes as a “*challenging public finance context*”. The paper highlights that:

- Overall, the Bill’s proposals would be likely to have modest, but ongoing financial implications for the “public purse”, if enacted and implemented as introduced.
- It seems reasonably foreseeable that the most significant amongst those costs would arise from administration, staffing, arboricultural expertise, monitoring, enforcement, legal proceedings and the establishment of new regulatory processes.
- The extent of those costs would depend on the volume of cases, implementation arrangements and the availability of resources within the DfI and the local councils. Some of the areas highlighted in the paper in relation to costs include:

Considerations

Considering these points the following questions may merit further investigation:

- The EFM states that the Bill itself has no direct financial effects. But that there will likely be **modest ongoing costs** dependent on implementation. And that assessment of the Regulations will be carried out separately. What does 'modest mean? And will there be a more extensive and detailed financial assessment of the Bill and Regulations. Will this be provided by the Member in time to help the Committee consideration during scrutiny? Or will this be the responsibility of DfI at a later stage?
- Will there be resources to help with the anticipated additional administrative, staffing and enforcement pressures on public bodies, local councils and the Department for Infrastructure? Would this be across the board or tailored for those councils facing the most pressures?
- Has there been any assessment on the current level of TPOs and the likelihood TPO activity across the different councils to get an appreciation of likely costs especially to the public purse?
- Has there been (or will there be) any assessment on the potential financial risk for councils recovering costs from carrying out replacement tree works?
- Has there been (or will there be) any assessment on the potential financial risk of recovering costs associated with potential increase in enforcement activity or conviction?

Especially due the extension of liability to those who may indirectly enable a breach of a TPO?

- Is it hoped that costs can be offset through increased convictions using s.126 of the Planning Act 2011, which can lead to a summary conviction fine of £100,000, or unlimited fine on indictment⁴⁶? While current conviction levels appear to be low (with 3 convictions 2011 to end of 2024 imposing a monetary penalty⁴⁷), Members may wish to consider whether costs can be offset by fines?
- Also, can money from fines under the Bill be used to help off-set costs and/or go towards tree protection/conservation etc? Or will they be fed back in and distrusted more generally, for example to the Consolidated Fund?

The potential financial impacts of the Bill are provided in more detail in an accompanying paper Review of Costs - Tree Protection Bill (NIAR 272-26).

4.3 Assessments

The following section considers other impacts assessments and whether these have been conducted, such as:

- **Human Rights** – According to the EFM the provisions of the Bill are considered to be compatible with the European Convention on Human Rights and with Article 2(1) of the Windsor Framework. Further detail is provided in the [Summary of Responses](#) (p.3).
- **Equality Impact Assessment** – An Equality Impact Assessment (EQIA) has not been undertaken. Engagement between the Bill Sponsor and the Equality Commission on the outline proposal did not raise any potential

⁴⁶ NI Assembly [Official Report \(Hansard\) Monday 21 September 2026](#) Volume 198, No 3 (p.56)

⁴⁷ *RalSe Review of Costs - Tree Protection Bill (NIAR 272-26) (p.32)*

adverse effects. If these emerge, the sponsor has stated that he will engage to understand any points raised.⁴⁸

- **Regulatory Impact Assessment** – There does not appear to be one accompanying the Bill's EFM. ***Will this be carried out by DfI under the development of Regulations, and when?***
- **Rural Needs Impacts Assessment** – There does not appear to be one accompanying the Bill's EFM – ***Will this be carried out by DfI subsequently, and when?***

The specific requirements for a Member's Bill are set out in section 41 of Assembly [Standing Orders](#). It details that on introduction, a Bill should be accompanied by an EFM detailing:

- the nature of the issue the Bill is intended to address;
- the consultative process undertaken;
- the main options considered;
- the option selected and why;
- the cost implications of the proposal/s⁴⁹.

RIA & Rural Needs

- Members may wish to ask the Sponsor whether any form of assessment was carried out in relation to any disproportionate impacts on rural areas or areas where tree density and woodland may be more in abundance? (Also see s. 6.9 p.80 map of ancient woodland). Members may wish to clarify whether Standing Orders for Members Bills include requirements for Rural Needs Assessment or Regulatory Impact Assessments etc?

⁴⁸ [Tree Protection Bill Explanatory and Financial Memorandum](#) p.11

⁴⁹ NI Assembly [standing-orders-at-29-june-2026.pdf](#) p.27

- If not, are these to be conducted later by the Department with responsibility for implementing the provisions once the Bill receives Royal Ascent?
- And what happens if the Department finds issue with any of the assessments they conduct? Might and can enactment be postponed?

Review mechanism

If there is a lack of assessment requirements accompanying a Member's Bill, is there need for a review clause to assess the operation, effectiveness, impacts and implementation of the Bill over time?

Regulations

The Department has power to make regulations in the following areas:

Clause 7 Tree protection Map – upload dates (negative resolution), information kept in maps (affirmative procedure). (S.6.6 of paper)

Clause 11 Interpretation - Definition of ancient tree (s 6.1.3 of paper) ; specifications for heavy standard tree (s.6.3 of paper). However the assembly procedure does not appear to be specified.

- Are Members happy with level of scrutiny procedure afforded to the regulations?
- Members may wish to seek clarity on the level of scrutiny procedure afforded to regulations under Clause 11?
- What happens if the Department's definitions of ancient tree or specifications for standard heavy tree differ from, or disagree with, the other organisations mentioned - what takes priority?

5 Comparison

The following section provides an overview of comparisons of the Bill proposals with other legislation from across the UK and Ireland as already described in s.3 of the paper.

Table 1 provides an overview of comparisons with the Tree Protection Bill, [Town and Country Planning Act 1990 \(England and Wales\)](#) (s.198-214A), [Town and Country Planning Act 1997 \(Scotland\)](#) (s.16-172) and the [Development and Planning Act 2000 \(Ireland\)](#) (s.205).

Further detail on comparisons is made throughout the next section (Section 6) in relation to more detailed considerations around the provisions of the Bill.

Therefore Table 1 can be read in conjunction with the respective subsections in section 6.

Table 4: Comparison across UK and Ireland

Clauses of Bill	Eng/Wales	Scotland	Ireland
1. Tree Preservation Orders: a) Allows councils to make TPOs in the interests of ecosystem services (defined cl 10), as well as amenity. (s.6.1.1 of paper)	No mention of ecosystem services, just amenity.	No mention of ecosystem services, just amenity and cultural or historical significance.	No mention of ecosystem services just amenity or environment.
b) Allows a TPO to prohibit the 'causing or permitting' of destruction etc. (s.6.1.2 of paper)	Mentioned as an offence under s210 (see Clause 3 below).	Relies on wording of individual TPOs. Not mentioned on face of the Act but in the model TPO (Annex A) in	Not explicitly mentioned in the Act.

Clauses of Bill	Eng/Wales	Scotland	Ireland
		Planning Circular1:TPOs.	
c) Allows a council to make a TPO for ancient trees . (s.6.1.3 of paper)	Not included in TPO legislation.	Not included in TPO legislation.	Not included in TPO legislation.
2. Provisional TPOs deemed confirmed after 6 months. (s.6.2 of paper).	Provisional TPO expires after 6 months of being made, unless confirmed by the LPA.	Provisional TPO removed in 2006. A TPO takes effect immediately, but will expire if not confirmed within 6 months.	A proposed TPO takes effect immediately before confirmation. With no automatic lapse or timeframe.
3. Penalties Includes 'cause or permit' within the penalties for contravention of a TPO. (s.6.1.2 of paper).	It is an offence to 'cause or permit' the breach of a TPO and prohibited activities under s.210 of the 1990 Act.	Not explicitly mentioned like Eng/Wales.	Not included in TPO legislation.
4. Replacement of trees	S.206 "another tree of an	s. 167 "another tree of an	No specific requirement

Clauses of Bill	Eng/Wales	Scotland	Ireland
“a heavy standard tree of an appropriate size and species” Defined clause 11. (s.6.3 of paper).	appropriate size and species”.	appropriate size and species”.	written on face of Act. Unless written into s.205 agreement with owner/LA for management of trees.
5. Inspect Replacement Trees Council to inspect replacement trees (s.6.4 of paper).	No similar requirement.	No similar requirement.	Same as above.
6. Enforcement of replacement trees. Council may recover costs of planting from the person responsible for breach. Or from owner if person can't be identified/insolvent. (s.6.5 of paper)	S.209 recover costs from owner directly. Owner may pay on request of person responsible. LA can put costs as charge on land.	S.170 Owner/lessee may recover costs from person responsible.	s.205 LPA may give assistance including financial assistance. But mention of cost recovery measures.
7. Tree Protection Map Requires the Dept to provide an online digital map of TPOs free of charge. (s.6.6 of paper)	No requirement for a national scale map.	No requirement for a national scale map. However Scottish Government Spatial Hub collates TPO data from LAs and provides an	No requirement for a national map.

Clauses of Bill	Eng/Wales	Scotland	Ireland
		interactive map and GIS data	
8. Ancient and long-established woodland. Planning to be refused for applications that may negatively deteriorate, or be within 15m of such woodlands. Unless exceptional circumstances. (s.6.7 of paper)	No reference in primary legislation. But a material consideration in strategic planning policy. Does not mention long-established woodland.	No reference in primary legislation. But a material consideration in strategic planning policy. Does not mention long-established trees.	No reference in primary legislation or strategic planning policy.
9. Permitted development. Permission will not authorise development that may cause loss/deterioration to ancient/long-established woodland. (s.6.7 of paper).	Not included in permitted development rights legislation .	Not included in permitted development rights legislation .	No reference made in relation to exempted development under the Planning and Development Act 2000 and 2024 Act (to amend the 2000 Act in phases).
10. Ecosystem services defined as: cultural services ⁵⁰ ; regulating	No reference to or definition of ecosystem services in relation to TPOs.	No reference to or definition of ecosystem services in relation to TPOs.	No reference to or definition of ecosystem services in relation to TPOs.

⁵⁰ According to the Schedule 1A: recreation and tourism, sense of place, health benefits.

Clauses of Bill	Eng/Wales	Scotland	Ireland
services ⁵¹ ; supporting services ⁵² , (s.6.1.1 of paper).			
11/12. Definitions: heavy standard tree (s.6.4 paper), ancient tree (s.6.1.1 paper), ancient woodland, long- established woodland. (s.6.7 paper)	No definitions provided under TPO and primary planning legislation.	No definitions provided under TPO and primary planning legislation.	No definitions provided under TPO and primary planning legislation.

6 Consideration of proposals

The following section takes a thematic approach to looking at particular aspects of the Bill in more detail. It provides a brief overview of the related clauses, any areas of comparison with other jurisdictions where relevant, and some further points of consideration on which Members may find it useful to seek further clarity.

For a clause by clause account of the Bill, please refer to the Bill's [Explanatory and Financial Memorandum](#) (EFM).

⁵¹ According to the Schedule 1A: Climate regulation; Flood regulation; Fire hazard regulation; air and water quality regulation; Erosion control; Disease and pest control; Soil quality regulation; and Noise regulation.

⁵² According to the Schedule 1A: Primary production; Soil formation; Water cycling; and Nutrient cycling.

6.1 Extension of application

Clause 1 strengthens existing TPO legislation under the Planning Act 2011 by broadening the extent to which a TPO may be applicable. These are explored in more detail in the following sections.

6.1.1 Ecosystem services

Clause 1 amends s.122 of the Planning Act 2011 by broadening the application of TPOs to allow councils to make one in the interest of 'ecosystem services' as well as amenity. This is described as the direct and indirect contributions of ecosystems to human well-being as classified in Schedule 1A.

Schedule 1A provides a list of reasons that a tree may be afforded protection under a TPO as ecosystem services. Examples include:

- Cultural service – recreation/tourism; sense of place; health benefits
- Regulating services – climate, flood, fire hazard, air/water quality, erosion, disease/pest control, and noise regulation.
- Supporting services – primary production; soil quality regulation; water and nutrient cycling;

The Bill does not appear to provide any further clarification of what each of these categories mean, where they have come from, or how they may be assessed by councils in deciding whether or not a tree provides any of the services listed and should therefore be given a TPO.

Looking at examples of existing policy and its use of ecosystem services, the [*Strategic Planning Policy Statement for Northern Ireland, Edition 2 \(SPPS\)*](#) makes general reference to ecosystems and the provisions of services and their relationship to human well-being. It suggests they should be integrated into plan-making and decision-making processes.

However, the SPPS does not appear to provide a similar definition and list of services to Schedule 1A of the Bill.

The draft [*Nature Recovery Strategy*](#) (p.6), makes reference to Ecosystem services in the following way:

Our economy, health and wellbeing depend on healthy, resilient ecosystems. These provide us with our food, clean water and air, as well as the raw materials and energy for our industries. Healthy ecosystems can also deliver protection against hazards such as floods. These benefits to our wellbeing and to the environment are known as ecosystem services.

While these examples don't appear to provide for further explanation of the categories listed in Schedule 1A, [the UK National Ecosystem Assessment](#) provides a similar definition to the Bill. It defines ecosystem services as:

...the benefits provided by ecosystems that contribute to making human life both possible and worth living.

It classifies them into categories, broadly following the [Millennium Ecosystem Assessment](#) framework, which appear to be similar in nature to the Bill:

1. **Provisioning services** - Products obtained from ecosystems (food, water, timber)
2. **Regulating services** - Benefits from regulation of ecosystem processes (climate regulation, flood control)
3. **Cultural services** - Non-material benefits (recreation, aesthetic value, cultural significance)
4. **Supporting services** - Underpinning processes (soil formation, nutrient cycling)

Considerations

- Has there been any assessment on whether this might increase the number of TPOs across NI?
- And how might this impact councils in terms of resources for making assessment and administration if the number of TPOs increases?

- Has consideration been given to the impact this might have on the planning decision-making process? This has been described as inefficient and suffering delays by the [NIAO Report](#) (2022).
- The categorisation list of ecosystem services which a TPO may be made appear to be very broad. What is the evidential test for each? For example, how will a council determine whether a tree does or does not contribute to the cultural, regulation or support services listed in the definition?
- What do each of the areas listed under Schedule 1A mean? Will there be guidance.
- How does the council determine whether claims are in good faith, for example how do you determine whether someone is genuine about sense of place for example?
- How will a council determine whether a tree does or does not contribute to climate regulation for example? Does the type matter, whether deciduous or evergreen?
- What happens when ownership of land changes and values of a tree change? Can a TPO be removed?
- While the term 'ecosystem services' and how it should be considered is mentioned in the SPPS and the Draft Nature Recovery Strategy, it's not as prescriptive as in the Bill. How might this level of prescription impact planning decisions going forward?
- Will 'ecosystem services' and its categories need to be written in LDPs?

- What resources will be needed to help councils assess applications on the basis of the definitions under ecosystem services?
- Will there be detailed guidance to accompany this? Will it be produced concurrently with the Bill?
- Members may wish to ask councils whether they feel they will need training to help deliver the proposals?
- Is there an appeal mechanism?
- Are there protections or defences against vexatious applications?
- [Second Stage debate](#) (p.56) mentioned the term “expediency” in relation to assessing TPOs by council officers. Members may wish to find out whether applying the expediency test will be helped, or complicated, with the ecosystem services requirements under the Bill?
- Commencement of the Bill is 12 months after it receives Royal Assent (Clause 14). What is to stop people who fear a tree might fall under the new TPO provisions and impact development, from going out and removing or cutting it down before the Bill comes into force?

Comparisons

It appear that the other UK jurisdictions and Ireland do not make reference to ecosystem services for the purposes of making a TPO:

- Under the [Town and Country Planning Act 1990 \(England and Wales\)](#), reference is only made to ‘the interests of amenity’.

- The [Town and Country Planning \(Scotland\) Act 1997](#) (S.160) only makes reference to amenity, but also includes cultural or historical significance.
- The [Planning and Development Act 2000](#) (s205) makes reference to amenity or environment.

Some international approaches appear to give trees protection as monuments, based on physical, historical, cultural and ecological values. They don't appear to provide for the same list of ecological services under the Bill, for example:

- Italy's 1939 Monumental Trees law protects trees based on their 'natural beauty'. In 2013 a set of criteria was produced adding extreme longevity, unusual dimensions, rarity of species, historical and cultural significance, and ecological value⁵³.

According to the [Ministry of Agriculture, Food Sovereignty and Forestry](#), since 2013, over 4944 monumental trees have been added to a growing national registry (at the time of writing). Anyone caught illegally damaging or knocking down these trees may incur a fine as high as 100,000 euros⁵⁴.

- Poland can designate trees as 'natural monuments' under the Nature Conservation Act 2004 (as amended). Regulation on the criteria for trees was added in 2017⁵⁵:
 - Trunk circumference as defined in the Annex
 - Standing out among other trees of a similar species due to: trunk circumference; height; crown width; age; occurrence in clusters; habitat or other morphological features; exceptional natural, scientific, cultural, historical, or landscape values.

⁵³ National Geographic [online] [See the beautiful, ecologically priceless trees Italy is protecting forever](#)

⁵⁴ *ibid*

⁵⁵ Woodland Trust [Exploring Poland's Natural Monuments Scheme: Protecting old and special trees in law - Ancient Tree Inventory](#)

According to The Woodland Trust, over 30,000 of these natural monuments are ancient, monumental or distinguished trees⁵⁶.

6.1.2 Cause or permit

S.122 of the Planning Act 2011 currently covers direct action only against protected trees under a TPO. This means that the person actively doing the action prohibited under a TPO is only liable. However, Clause 1 (3) of the Bill extends this to prohibit the ‘causing or permitting’ of such actions under a TPO. Therefore, this extends liability to include those indirectly causing the breach e.g. landowners, contractors etc.

Clause 3 (Extension of penalties) ensures that to knowingly “cause or permit” a tree to be cut down, uprooted etc is subject to the penalties for contravention of a TPO. Therefore, this extends multi-party liability to those who may indirectly enable a breach of a TPO.

Comparison

In England and Wales under [The Town and Country Planning Act 1990 \(England and Wales\)](#) it is an offence to cause or permit a breach of a TPO (s.210). However, unlike the Bill, cause and permit is not included in relation to the actions that require consent under a TPO in [s.198 \(3\)](#).

The Town and Country Planning (Scotland) Act 1997 (s.160 or s.171) does not appear to make explicit reference to ‘cause and permit’ in the same way as England and Wales. Scotland appears to rely more on the wording of individual TPOs. For example, the [model TPO \(Annex A\) in Planning Circular 1:TPOs](#) does mention to ‘cause or permit’ as a prohibited act under Article 3 (b) of the model TPO. While the Circular is guidance, should councils use the model TPO provided, then ‘cause or permit’ is given legal status under the actual TPO, rather than the legislation. **However, further clarity may be needed on this.**

⁵⁶ ibid

In Ireland, under [The Planning and Development Act 2024](#) s.267, it is prohibited to cut down, top, lop or carry out wilful destruction of any tree or trees. There is no explicit mention of cause and permit here. Subsection (5) (d) states that **any person** who contravenes an order/ proposed order shall be guilty of an offence under the general offences section of the Act (s.354), similar to unauthorised development. **Further clarity may be needed as to whether ‘any person’ would apply multi- party liability to anyone causing or permitting.**

Considerations

- Does the fact that to ‘knowingly’ cause or permit is to be guilty of an offence under Clause 3, give protection against someone who didn’t know a breach was happening? E.g. an unknowing landowner?
- Will this section require burden of proof? What will this entail and by whom?
- How do you determine what is a “manner as to be likely to destroy” a tree, so as to ensure assumptions are not being made? Will it require assessments? Will this require external experts, costs, time?
- How will consistency across councils be ensured? Will there be guidance on this, will it be prescriptive on the actions that are “likely” to cause destruction?
- What about accidental damage? Through hedge work? Traffic collision etc? How do you prove wilful if someone claims it was an accident?
- Offences and fines to this section are provided s.126 of the Planning Act 2011 - £100,000 summary conviction and unlimited fine on indictment (determined by Courts).

- Members may wish to consider how lesser offences under these sections might be dealt with - by summary conviction only?

6.1.3 Ancient Trees

Subsection (4) allows a council to make a TPO for ancient trees. Where a council has '**reason to believe**' that a tree may be an ancient tree, it must get it assessed by a suitably qualified arboriculturist before making a TPO. The condition, health and structural integrity of the tree is not to be considered grounds for refusal, unless the tree is confirmed dead by the arboriculturist.

An Ancient Tree is defined in Clause 11 as:

...a tree that meets the criteria for ancient trees published by the Ancient Tree Forum and the Woodland Trust (or any successor body to either), or such other criteria as the Department may by regulations prescribe.

Considerations

- Is there data on how many ancient trees there are in NI, and therefore how many are likely to be covered by a TPO under the provisions?
- It's unclear from the definition, but is ancient in one species different from ancient in another due to differences in lifespan etc?
- Does this give ancient trees an official designation status?
- In terms of the definition, what happens if the Department differs, or disagrees with criteria published by the Ancient Tree Forum and the Woodland Trust? What takes priority?

- Members may wish for clarity on the level of Assembly scrutiny given to regulations made by the Department under this section?
- The condition, health and structural integrity of the tree is not to be considered grounds for refusal, unless the tree is confirmed dead by the arboriculturist. What about dangerous trees and safety aspects? Could this create confusion with the existing dangerous tree exemption under the Planning Act⁵⁷?
- What if a tree is dying but not dead and structurally sound? How will this tie in with council management plans and disease control etc?
- What does 'reason to believe' mean or look like?
- Can a member of the public suggest a tree is ancient, then for the council to determine?
- If a council is not sure whether they 'have reason to believe', must they pay to use an arboriculturist every time?
- Will determination of an ancient tree be left to the determination of an arboriculturist? Or will council officers be given training?
- Are there enough arboriculturists in NI to service all councils? Especially if there is an increase in TPO applications?
- Will assessment require the production of an arboriculturist report for each case? What status will this be given legally,

⁵⁷ Which does not require consent for works for dead or dangerous trees under [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015](#) (Schedule 3).

or when considering a council's 'reason to believe'? Can a council disagree with the assessment? If so, what happens?

- What if a person is unaware that a tree may be ancient?
- What if someone makes an unscrupulous claim for an ancient tree TPO, but the council can't prove it isn't ancient? Is that enough to qualify that the council doesn't have 'reason to believe' – will they still have to pay for an arboriculturist?
- What protections are there against vexatious claims that may still waste time, resources and money?
- What's to stop the destruction/removal of trees that may fall under these provisions before it becomes law?
- The Bill seems to go further than the other UK jurisdictions and Ireland by explicitly mentioning ancient trees on the face of the Bill. This may remove flexibility for councils on a case by case basis, but perhaps bring consistency of approach. Do councils consider this a positive or negative approach?
- Will reduction in differences of interpretation be brought through guidance?

Comparison

England and Wales: Ancient trees are not given a standalone designation, and protection is given on a case-by-case basis through TPOs. Section 198 of [The Town and Country Planning Act 1990](#) (and associated regs⁵⁸) a local planning

⁵⁸ [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#)

authority (LPA) may make a TPO “in the interests of amenity” for individual trees, groups of trees, woodlands.

According to [guidance](#), amenity value may be determined by rarity, cultural or historic value (amongst others). **Without explicitly mentioning ancient trees, further clarity may be needed as to whether they fall under amenity value.**

Similar to England, the current NI Planning Act 2011 does not explicitly mention ancient trees in relation to TPOs. However, the associated [guidance](#) explains that trees may be protected due to their special value in terms of amenity, which may include historical importance and age.⁵⁹

Similarly, in Ireland there is no explicit mention under the Planning and Development Act 2024 (s.267) to ancient trees. **However, clarity may be needed as to whether ancient trees are given protection through a TPO as it applies to the interests of amenity or the environment.**

In Scotland, similar to England and Wales, there doesn't appear to be automatic legal protection for ancient trees. However, different to England and Wales, [section 160 of the Town and Country Planning \(Scotland\) Act 1997](#) mentions that a TPO can be made in the interests of amenity, and also cultural or historical significance (s.160)⁶⁰. **This may imply that the reference to cultural or historical significance is clearer and therefore stronger in relation to ancient trees.**

6.2 Provisional TPOs - deemed confirmation

Clause 1 Subsection (5) provides that a TPO will only take effect upon confirmation by a council. Effect happens on the date of confirmation or deemed confirmation (as described below), whichever comes first.

⁵⁹ DfI, Explanatory Note [Tree Preservation Orders - A Guide to Protecting Trees](#) p.4

⁶⁰ Scottish Government [TREE PRESERVATION ORDERS - Scottish Planning Series: Planning Circular 1 2011: Tree Preservation Orders](#)

Clause 2 changes the Planning Act by allowing a provisional TPO to become a TPO (referred to as deemed confirmation) after 6 months, provided no objections have been made or the council has not revoked the provisional TPO.

Essentially this means that a TPO may apply immediately as a provisional TPO, and will be deemed confirmed after 6 months, provided the council does not decide to revoke it⁶¹.

6.2.1 Comparison

Under section 198 of the Town and Country Planning Act 1990, in England and Wales a provisional TPO expires after 6 months of being made, unless it is confirmed by the local planning authority before 6 months.

The Town and Country Planning Act in Scotland does not have a specific category for 'provisional' TPOs any more. Section 163 (Provisional TPOs) was revoked by the Schedule of [the Planning etc \(Scotland\) Act 2006](#). However, s.161 was amended so that a TPO gives immediate protection from the date specified, regardless of confirmation. It expires after 6 months if not confirmed.

In Ireland [the Planning and Development Act 2000](#) (and the [2024 Act](#)) does not make specific mention of the term 'provisional TPO'. Section 205 allows for protection as soon as the TPO is proposed, even if the order hasn't been formally confirmed. The LPA must give 6 weeks for submissions on the proposal. The LPA may confirm, modify or refuse the order. Unlike Scotland, there is no automatic lapse or time limit for confirmation.

Considerations

- What records and actions will councils be required to keep in relation to deemed consent?

⁶¹ [Tree Protection Bill Explanatory and Financial Memorandum](#) (p.7).

- What happens if there is delays or administrative backlog with a provisional TPO, can it become deemed after 6 months due to this?
- Ireland appears to have the most streamlined approach where it seems that a TPO can take effect immediately, without the need to direct the application of a provisional TPO to the final order (as is the case in the Bill). While Scotland is similar in this respect, it has an automatic lapse after 6 months, that Ireland does not.
- Has the approach taken in Ireland been considered for the current Bill? Would it be considered to reduce administrative burden?
- Is there a timeframe for submissions to be made, similar to Ireland which gives 6 weeks from the proposed TPO?

6.3 Replacement Trees

Section 125 of the Planning Act 2011 states that in relation to replacement trees the owner of the land is to plant another tree of “an appropriate size and species” at the same place as soon as possible.

Clause 4 of the Bill changes “another tree of an appropriate size and species” to “a heavy standard tree of an appropriate size and species”. Once planted, the Council must be informed.

Under Clause 11 ‘a heavy standard tree’ means:

...a tree that meets the heavy standard specification set out in British Standard 8545:2014 (Trees: from nursery to independence in the landscape), or any British Standard which from time to time replaces, supersedes or is equivalent to that standard, or meets such other specification or standard as the Department may by regulations prescribe.

Regulations

Members may wish to seek clarity on:

- The level of scrutiny procedure afforded to regulations under Clause 11 in relation to standard heavy tree?
- What happens if the Department's specifications for standard heavy tree differ from, or disagree, with British Standards - what takes priority?

BS 8545 works alongside [BS 3936 Nursery stock – Specification for trees and shrubs](#) (Table 1) and describes a standard tree as:

- Girth 12-18cm (measured 1m above ground).
- Overall height from the ground of over 3.5m.
- Clear stem from ground to lowest branch of 1.75m – 2m.⁶²

The BS is intended for anyone involved in the planning, planting, transport, or ongoing management of young trees, including town planners and local authorities⁶³.

Clarity may be needed as to whether these are seen as technical guidance for the industry rather than statutory requirements. And what status are they going to be given under the Bill?

Under Subsection 4 of Clause 4, the land owner must plant another replacement should this tree die, be damaged, diseased, or removed within 5 years of being planted.

If the land owner is not responsible for the TPO breach, then responsibilities fall on the person responsible.

⁶² BSI Standards BS 8545:2014+A1:2026 *Trees from nursery to independence in the landscape – Code of practice* (Copy provided by Assembly Library)

⁶³ BSI Knowledge [BS 8545:2014+A1:2026 | 27 Jan 2026](#)

6.3.1 Comparison

It appears that none of the other UK jurisdictions or Ireland appear to use “heavy standard tree” as a requirement for a replacement tree.

England and Wales ([Town and Country Planning Act 2011 s.206](#) supplemented by the [2012 Regulations](#)) and Scotland ([Town and Country Planning Act 1997 s167](#)) state that it shall be the duty of the owner of the land to plant “*another tree of an appropriate size and species*” at the same place as soon as he reasonably can, with no mention of ‘heavy standard tree.’

In Ireland under the [Planning and Development Act 2024 s.205 \(2b\)](#), there does not appear to be the same explicit tree replacement duty as there is in England and Wales. A TPO may require an owner/occupier to enter into an agreement with the planning authority for the management of trees, including replanting. With no mention of ‘heavy standard tree’.

Considerations

- Unlike the other jurisdictions, does this mean the Bill standardises the size of replacement trees across NI? Would this be considered an advantage, or remove flexibility for councils?
- What is the availability of heavy standard trees across NI nurseries? Could this require import? If so, could phytosanitary issues/requirements make this complex?
- What if the original tree was not a heavy standard tree as defined?
- What does “appropriate size and species” mean – is it like for like? Will this be provided in regulations or guidance, or determined by the council on a case-by-case basis?

- Will there be guidance for councils in determining the type of replacement tree to ensure consistency across councils?
- Can a person appeal the requirements?
- If the person replaces with a type of tree not specified, are they liable for enforcement action? Or can they make a case for their reason?
- What happens if a property is sold within the 5 year period – how will the information be passed over to the new owner to make sure they don't allow it to fall into disrepair etc?
- Rather than having a general mandatory requirement, has consideration been given to a more flexible approach, similar to agreements in Ireland (s.205)? These appear to be tailored on a more case by case basis. Would this level of flexibility be considered an advantage or a disadvantage for councils?

6.4 Council inspections - replacement trees

Clause 5 requires councils to annually inspect any replacement tree for 5 years and identify any tree that needs additional care or replacement. They must inform the landowner of the action they need to take to ensure the establishment of the tree.

The form of inspections are to be determined by the council; they're limited to the examination of evidence of the tree's establishment, and may include a scheduled or unscheduled visit. The form of evidence of tree establishment and the time period is to be specified by the council.

The council must inform the owner/person responsible for the breach of the remedial action that must be taken and when.

The person responsible for the breach must carry out the remedial action within the time specified (or asap if not specified), unless the owner elects to do so.

If the person who committed the breach does not take action as required, the land owner must carry out the action as soon as reasonably possible. The owner may recover the costs from the person responsible.

6.4.1 Comparison

There does not appear to be a similar requirement on the face of the legislation in the other UK jurisdictions and Ireland requiring councils to annually inspect replacement trees.

For example, [s.214b of the Town and Country Planning Act \(England and Wales\) 1990](#), gives discretionary inspection powers to councils for the making of TPOs and replacement tree notices, checking breaches and assessing compliance for enforcement purposes. However, they are not legally required to.

Considerations

- Has there been any assessment to determine how many trees might need replaced across NI?
- Will councils have the resources to keep an overview of every replaced tree for 5 years? Will there be best practice guidance for the assessment process? Will councils require extra resourcing? Where will this come from?
- The timeframe for remedial action is specified by the councils, or as soon as the person/owner can (if not specified by council). What criteria/circumstances would allow the offender/owner to determine the time period?

- What form of evidence of establishment will be required, will this be uniform across councils?
- Does this mean the landowner could ultimately bear the costs of remedial action regardless of whether they caused the breach or not?
- What about exceptional circumstances that were beyond the control of the landowner – extreme weather, vandalism etc?
- How might this affect land in conacre/rented?
- What actions may an owner take to recover costs – legal?
- Will landowners need to consider this when writing up rental agreements?
- What happens to land being sold if a TPO has been breached? Does the new landowner need informed? Do replacement tree requirements carry over in deeds?
- What if the owner can't provide evidence, or provide it within the form and time specified by the council?

6.5 Enforcement and cost recovery – replacement trees

Clause 6 requires that the replacement of a tree, under a replacement notice in s.164 of the Planning Act 2011, must include “a heavy standard tree,” or trees of size and species specified.

Where a person fails to comply with an enforcement notice in relation to replacement tree(s), clause 6 allows for the council to enter land, plant the tree(s) and recover costs from the person in breach.

Where the person in breach cannot be found, identified, or is unable to pay, the council may recover costs from the land owner. In this case, the owner has a right of action to recover costs from the person in breach.

Considerations

- What right of action has a land owner against a person in breach?
- How will a landowner be more successful in recovering the costs from the person in breach if the council has not been able to?
- Must the council go through certain lengths to recover costs from the person responsible before taking payment off the owner if unsuccessful?
- Must the council show the lengths they have gone to try to recover costs from the person in breach?
- Can appeals be made against payments?
- Similar to England and Wales (discussed below s.6.5.1), has consideration been given for the charging on land of the expenses recoverable by a local authority?

6.5.1 Comparison

England and Wales ([s.207 Town and Country Planning Act 1990](#)) and Scotland ([s. 168 Town and Country Planning Act 1997](#)) may serve a notice to any person in contravention of replacement tree requirements (s.207). This notice may specify the size and species as determined by the local authority. However, this does not specify 'a heavy standard tree'.

[The Planning and Development Act 2000 s. 205](#) (and [2024 Act s.267](#)) does not make reference to ‘heavy standard tree’ nor any detail in relation to types of replacement trees. It provides for bespoke agreements to be made between the LA and owner/occupier in relation to tree and woodland management.

Cost Recovery

Similar to the current NI Planning Act 2011, s.209 of the English legislation allows the planning authority to recover costs for planting from the owner. However, s. 2b states:

Where such a notice has been served—

(a) any expenses incurred by the owner of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in planting trees required by such a notice to be planted,

shall be deemed to be incurred or paid for the use and at the request of any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

Similar to s.166 of the current Planning Act 2011, the wording suggests that the arrangement is through the owner. This means that the owner must pay the cost of directly replanting the tree, or reimbursing the council on behalf (or at the request) of the person who caused the breach. This may suggest that the owner may recover the cost from the person who caused the breach.

The English legislation also allows for any expenses recoverable by a local authority to be a charge on land ([s.209 \(5\)](#)).

Scottish legislation is slightly more explicit in its wording where s.170 allows for the owner/lessee to recover costs, from the person responsible, for complying with a notice, or paying the local planning authority.

[Section 205 of the Planning and Development Act 2000](#) Ireland (and [s 267 of 2024 Act](#)) may require the owner/occupier to enter into an agreement with the

planning authority to ensure the proper management of any trees/woodlands (including the replanting of trees). This is subject to the planning authority providing assistance, including financial assistance. However, there is no mention of cost recovery measures or rights on the face of the Act.

6.6 Tree Protection Map

While it's not a statutory requirement under the Planning Act 2011, some councils in NI provide maps of TPOs within their area as a matter of practice. According to the Member, currently six councils provide a map of TPOs for their area, while five do not⁶⁴.

As an example [Belfast City Council map](#) shows (as at 17 September 2026):

- Provisional TPOs
- Confirmed TPOs
- Conservation Areas

However, the Bill provides for a national scale map of TPOs across NI. Clause 7 requires the Department to provide a digital map showing TPOs in effect in NI. Known as the Tree Protection Map (TPM), it would be made available free of charge.

It will show the boundaries of conservation areas in NI and the number of TPOs received, approved, and rejected by each council.

Before the end of the initial upload period (specified via regulations), councils must enter:

- All information included in their planning registers on TPOS on the archive upload date (specified via regulations).
- Conservation area boundary information.
- The number of TPO applications received, approved, rejected over the previous 5 years.

⁶⁴ NI Assembly [Infrastructure Meeting Tree Protection Bill Briefing \(1 July 2026\)](#)

This information must be kept up to date every 3 months.

Powers are given to the Department to make Regulations under this clause for the following areas:

- The archive upload date and initial upload period – subject to negative resolution.
- The availability of information in the TPM, including description, form and manner – subject to affirmative resolution.

Clause 7 also ensures that the processing of information by the Department does not breach obligations of confidence, or any other restrictions imposed. This includes data protection legislation under the Data Protection Act 2018.

Considerations

- Will the TPM require extra resources and costs to DAERA and the councils? Have these been projected? Where will resources come from?
- What will happen to existing maps of TPOs that some councils already have?
- Will the map capture trees subject to planning conditions, similar to Mid Sussex (see next section 6.6.1)?
- Will the map include Ancient and long-established woodland?
- What if councils don't add or update data within the requirements? Will the Department be responsible for follow up? Is there a mechanism to compel them as part of the TPO process?
- Who has ultimate responsibility for information presented in the map, and its accuracy – councils or the Department?

- What does “taken into account” in relation to the use of personal data and data protection mean at a practical level? Will it require extra resources, or further training for councils?
- Will the TPM be statutory and used as legal advice?
- Are Members happy with the level of Assembly scrutiny afforded to regulations under Clause 7 - upload dates (negative resolution), information kept in maps (affirmative procedure)
- Will councils be consulted on the Regulations under this section?
- Will there be any guidance for councils in relation to their role and requirements around TPMs?

6.6.1 Comparison

England, Wales and Ireland:

England, Wales and Ireland do not appear to have centrally controlled/national scale TPO maps⁶⁵. Beyond provisions for a register and an individual map of the location of each TPO, their respective pieces of legislation do not appear to provide for the production of a centrally controlled national scale digital map⁶⁶.

However, some, but not all, local authorities appear to provide interactive GIS maps of confirmed and provisional TPOs and conservation areas for the public to view. Examples include [Mid Sussex](#), [Tower Hamlets](#), [Dartmoor National Park](#), [Swansea](#). As an example, [Mid Sussex's map](#) shows:

- Confirmed TPOs

⁶⁵ TPO Search [About TPO Search](#)

⁶⁶ England and Wales: [Town and Country Planning Act 1990](#) (202F) and [Planning and Development Act, 2000, Section 205](#) (subsections 3b and 12)

- Provisional TPOs
- Revoked/unconfirmed
- Trees subject to planning condition
- Conservation Areas.

[TPO Search](#) is a tool operated by a consortium of local planning authorities across England, Wales and Scotland. It aggregates publicly available TPO data from over 200 planning authorities and allows the public to search by postcode using an interactive map. However, there are limitations as the data is not guaranteed complete or up to date for every council and shouldn't be used as legal advice.

Scotland

Under the [Town and Country Planning \(Tree Preservation Order and Trees in Conservation Areas \(Scotland\) Regulations 2010](#), local planning authorities are responsible for managing and providing a public register and mapping the location of an individual TPO. There does not appear to be a statutory requirement to produce a national scale TPO map⁶⁷.

That being said, Scotland has a national scale, centralised dataset and map for Tree Preservation Orders, maintained on the Scottish Government [Spatial Hub](#). It collates TPO data from all Scottish local authorities, is publicly accessible and provides an interactive map and downloadable GIS data.

The Spatial Hub is developed and maintained by the [Improvement Service](#) (IS). The IS was established in 2005 as the national improvement organisation for Local Government in Scotland. This does not appear to be in response to a statutory requirement, but an agreement between local authorities and the IS based on its objectives of supporting local councils to “provide effective community leadership, strong local governance and deliver high quality, efficient local services.”⁶⁸

⁶⁷ [Scottish Planning Series: Planning Circular 1 2011: Tree Preservation Orders](#)

⁶⁸ Scotland Improvement Service [About us](#) and [About - Spatial Hub Scotland](#)

It relies on local authority data experts providing data, through the Spatial Hub submissions. Data is processed at regular intervals, making it available through the portal. See Dataset: [Tree Preservation Orders – Scotland](#)

Limitations:

However, the Scottish Government and Spatial Hub explicitly warn that not all TPOs are digitised consistently. Some councils map individual trees as points, or areas/woodlands as polygons, or both. This can cause duplication⁶⁹.

Therefore data is not legally definitive and *“Users of this data should not assume this data is totally accurate and should consult the specific local authority before making any decisions.”*⁷⁰

6.7 Ancient or long-established woodland

Currently, long established and ancient woodland do not appear to be defined and given explicit protection in primary legislation in NI. They may be indirectly protected if they fall within a conservation area or protected site e.g. Special Areas of Conservation, Special Protection Areas, Areas of Special Scientific Interest etc⁷¹.

Currently they are protected against development as a material consideration in planning policy. The [Strategic Planning Policy Statement](#) (paragraph 6.192) lists features for which *‘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’*. This list includes **known ancient and long-established woodland**⁷².

⁶⁹ Scotland Gov Spatial Data [online] [Tree Preservation Orders - Scotland](#) and [Tree Preservation Orders - Scotland \(Spatial Hub\) - Overview](#)

⁷⁰ Scotland National Data Library [Tree Preservation Orders - Scotland](#) and Arcgis [Tree Preservation Orders - Scotland \(Spatial Hub\)](#)

⁷¹ DAERA [Protected areas](#)

⁷² DfI [Strategic Planning Policy Statement for Northern Ireland, Edition 2 \(SPPS\)](#) p.80/81

Paragraph 6.193 states that,

*A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features listed above may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.*⁷³

Clause 8 strengthens this and requires that where grant of planning permission would result in:

- loss or deterioration to ancient or long-established woodland;
- development within 15m of ancient or long-established woodland; or
- deterioration of an ancient tree that is subject to a tree preservation order.

The council (or Department) must refuse planning permission unless the applicant can demonstrate that there are wholly exceptional circumstances justifying its approval.

Clause 9 extends this to permitted development rights. Where permission under Article 3 (Permitted Development) of the 2015 Order shall not authorise any development which may cause loss/deterioration to, or be within 15m of, ancient or long-established woodlands.

Definitions are provided under Clause 11:

- **Ancient woodland** - an area that has been wooded continuously since at least the end of the year 1600 AD and includes ancient semi-natural woodland and plantations on ancient woodland sites.
- **Long-established woodland** - an area that has been shown to be continuously wooded since the First Edition six-inch to the mile Ordnance

⁷³ ibid

Survey Maps of 1830-1844 were published, but for which no documentary evidence has been found that it was wooded prior to 1600.

It would appear that the definitions are similar to those used in the [Northern Ireland Ancient Woodland Inventory](#), a project conducted by the Woodland Trust. The definitions under the Trust are not statutory and were developed by the project in order to categorise, document and map ancient woodland in NI.

The UK [National Planning Policy Framework](#) provides a similar definition for ancient woodland (p.71). This is not statutory, but policy based and makes the definitions material considerations in planning. Scotland and Ireland appear to show slight differences, mostly with dates. In Scotland ancient woodland is land that has been continuously wooded since 1750.⁷⁴ In Ireland ancient woodland is woodland believed to have remained continuously wooded since at least 1660. And Long-Established Woodland has been continuously wooded since c.1830 (1st-edition OS maps)⁷⁵.

Considerations

- Are Members happy for the definitions provided of ancient and long established woodland to be made statutory through planning legislation?
- Is it felt that under the current regime, TPOs or conditions attached to a planning permission would not be sufficient? However, would this give more discretion to the council and the specific needs of the area?

⁷⁴ Scotland Gov [National Planning Framework 4](#) (p.144)

⁷⁵ Ancient Woodlands Ireland [An All-Island Inventory of Ancient and Long-Established Woodlands for Ireland and National Parks](#) and Wildlife Service [Mapping, monitoring, and protecting ancient and long established woodland in Ireland](#) (Executive Summary p.i).

- Is there a wildlife, conservation and designation element under the remit of DAERA? Has DAERA been consulted on this?
- Is this a presumption against development in relation to ancient/long-established woodland?
- Are Members happy for this to be made statutory on the face of the Bill? The current position in NI is provided through policy, same as the rest of the UK?
- Does this give greater protection to ancient/ long-established woodland than it does for other trees under a TPO?⁷⁶
- Could there be any overlap or confusion between ancient woodland, or ancient tree provisions? Can a number of single ancient trees within an area constitute a woodland?
- Are ‘wholly exceptional circumstances’ the only exemptions?
- What does “wholly exceptional circumstances” mean? Will there be further detail/ guidance for councils? Should this be on face of the Bill, or does this give flexibility?
- Could this have a disproportionate impact on more well established wooded areas? And rural areas? Will a rural impact assessment take this into consideration, considering that one did not accompany the Bill (as mentioned paragraph 4.3 above)?

The DAERA Minister announced new [Woodland Creation Tree Planting Action Plan](#) – could the existence of ancient or long-established woodland, or a TPO, impact or limit actions under

⁷⁶ For example, under [s.121 of the Planning Act 2011](#), the presence of certain or important trees does not necessarily stop development, but planning conditions (and/or a TPO) may manage the development so as to protect the trees.

this plan? For example, in relation to the potential impact of new trees/woodlands on the preservation of more fragile ancient trees or woodlands.

6.7.1 Comparisons

The rest of the UK appear to have a similar position to the current position in NI. Ancient woodlands are recognised in planning policy, but do not appear to be provided statutory definition in primary planning legislation.

TPO legislation in England under the [Town and Country Planning Act 1990](#) (198-214A) and the [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#) do not appear to specifically mention ancient trees or ancient woodlands. The legislation allows local planning authorities to protect: individual trees, groups of trees, areas of trees, and woodlands, in the interest of amenity. Therefore ancient trees or woodland could be protected due to their amenity value.

However, England's [National Planning Policy Framework](#) (NPPF) goes a bit further. Its presumption for refusal appears to be similar in nature to the Bill proposal. For example, it states:

...development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.⁷⁷

The NPPF provides examples of wholly exceptional reasons:

...infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills),

⁷⁷ Ministry of Housing Communities and Local Government [National Planning Policy Framework](#) p.56

where the public benefit would clearly outweigh the loss or deterioration of habitat⁷⁸.

This makes it a material consideration on planning decisions, but not a statutory rule in primary legislation.

A UK Parliament written answer (March 2025) states that protections are strengthened further by the [Town and Country Planning \(Consultation\) \(England\) Direction 2024](#) (s.11) which requires local planning authorities to consult the Secretary of State where they have resolved to grant planning permission for development affecting ancient woodland⁷⁹.

In response to standardising the assessment of ancient woodland impacts, the Minister of State (Housing, Communities and Local Government) stated:

we do not consider it necessary to standardise the assessment of ancient woodland impacts or mandate arboricultural reports. The Ancient Woodland Inventory, updated Planning Practice Guidance and the Standing Advice on ancient woodlands and ancient and veteran trees are in place to support local decision makers make informed decisions about planning applications near these habitats⁸⁰.

- Has a similar provision to the strengthened protection given under the [Town and Country Planning \(Consultation\) \(England\) Direction 2024](#) (s.11) ever been considered?
- Will the Bill require standardised assessment of ancient woodland impacts or mandate arboricultural reports?

⁷⁸ Ibid Footnote 70 (p.56)

⁷⁹ UK Parliament [Written questions and answers - Written questions, answers and statements](#)

⁸⁰ [Written questions and answers - Written questions, answers and statements - UK Parliament](#)

In Wales, the [Planning Policy Wales](#) appears to be similar to the NI SPPS in terms of permission depending on benefits:

Ancient woodland [...] are to be afforded protection from development which would result in their loss or deterioration unless very exceptionally there are significant and clearly defined public benefits⁸¹;

In Scotland there doesn't appear to be any legislation specifically protecting ancient woodland. There does not appear to be any explicit reference to ancient trees/woodlands under the current TPO legislation of the [Town and Country Planning \(Scotland\) Act 1997](#) (ss. 160-172) and associated regulations⁸². However [guidance](#) states that a TPO may be made if it appears to the planning authority to be:

- expedient in the interest of amenity and/or,
- that the trees, groups of trees or woodlands are of cultural or historical significance⁸³.

Therefore an ancient tree/woodlands may qualify for protection due to its cultural, historical or amenity value. However it is not expressly mentioned in legislation.

Similar to the rest of the UK, it is considered in the Scottish [National Planning Framework 4](#), which states:

Development proposals will not be supported where they will result in: . Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition⁸⁴;

⁸¹ Welsh Government [Planning Policy Wales - Edition 12](#) p.159

⁸² [Town and Country Planning \(Tree Preservation Order and Trees in Conservation Areas\) \(Scotland\) Regulations 2010](#)

⁸³ Scottish Gov [Scottish Planning Series: Planning Circular 1 2011: Tree Preservation Orders](#)

⁸⁴ Scottish Government [National Planning Framework 4](#) p.44

The respective pieces of planning policy across the rest of the UK appear to focus on ancient woodland only, rather than long -established woodland also.

The Woodland Trust also has a UK-wide [Ancient Tree Inventory](#) to which planning policy makes reference⁸⁵.

In Ireland primary legislation does not appear to directly refer to ancient (or long established woodland). Protection may be provided indirectly through nature conservation legislation. Such as the Habitats Directive where an ancient woodland falls within the Natura 2000 network⁸⁶. Recommendations have been made by the National Parks and Wildlife Service (2024) for more formalised protection of ancient and long established woodlands (ALEW)⁸⁷.

6.8 Buffers

Clause 8 of the Bill proposes:

- That where the grant of planning permission would result in development within 15 metres of ancient or long-established woodland - the council/Department must **refuse planning permission**.
- Unless the applicant demonstrates that there are “**wholly exceptional circumstances**” justifying the grant of planning permission.

While the consultation questions did not appear to mention the use of buffer zones, some of the [consultation responses](#) suggested the addition of them to help prevent root damage reduce pollution etc. However others highlighted some issues with respect to the impact of buffers on hindering critical

⁸⁵ Welsh Government [Planning Policy Wales - Edition 12](#) (.159)

⁸⁶ National Parks and Wildlife Service [Mapping, monitoring, and protecting ancient and long established woodland in Ireland](#) (see p.59 Recommendation 3)

⁸⁷ National Parks and Wildlife Service [Mapping, monitoring, and protecting ancient and long established woodland in Ireland](#) (P.59)

infrastructure development and impacting planning applications and their numbers⁸⁸.

During the [Second Stage Debate](#) on the Bill, the Member stated that:

In cases in which it is deemed necessary for development to take place, for whatever reason, on long-established or ancient woodland, there is a pragmatic provision for that to be overridden in the case of wholly exceptional circumstances⁸⁹.

Other jurisdictions

Other TPO legislation from across UK and Ireland (as mentioned Table 1 (Section 5 of paper), does not appear to mention the use of statutory buffer zones around ancient or long established woodland.

However Natural England Forest Commission guidance on [Ancient woodland, ancient trees and veteran trees: advice for making planning decisions](#) suggests that proposals should have a buffer of at least 15m from the boundary of the woodland to avoid root damage.

In comparison, [Woodland Trust Manual](#) suggests a 50m buffer in its guidance⁹⁰. According to the Manual, King's Lynn and West Norfolk Councils agreed that a 50m buffer was needed to protect ancient Reffley Wood from the impacts of future housing development. And Wiltshire Core Strategy identified the need for a 100m buffer between all ancient woodland and built environment⁹¹.

⁸⁸ Consultation Responses [Consultation Summary of Responses - Tree Protection Bill](#) p.13

⁸⁹ NI Assembly [Official Report \(Hansard\) Monday 21 September 2026](#) Vol 198, No3. (p.53)

⁹⁰ Woodland Trust [planners-manual-for-ancient-woodland](#) p.20

⁹¹ *ibid*

Considerations

- The Bill proposes 15m buffer as mentioned in UK guidance, as opposed to 50m suggested by Woodland Trust guidance.
- Do councils currently provide any buffers around ancient woodlands. Is this something that is brought under planning conditions?
- Are Members happy for a buffer of at least 15m to be made mandatory, when it is not in legislation in other UK and Ireland legislation, but in planning guidance?
- Members may want to consider whether councils should be given flexibility to determine the need for buffers and their size on more of a case by case basis?
- Were buffers explicitly mentioned in the consultation questions? Or as a result of the consultation?
- And have all stakeholders had a chance to respond to their introduction, size, criteria etc? If not will they? Or will it purely rely on the Committee scrutiny process?
- Members may wish for further detail in relation to “wholly exceptional circumstances” for planning refusal within these areas. Might this include development of old and new critical infrastructure such as hospitals, roads, schools, housing, public safety, emergency operations/work, farmland diversification and renewable energy installation etc?
- Should “wholly exceptional circumstances” be set out in guidance or regulations? Determined on a case by case basis for flexibility? Or should this be on the face of the Bill for consistency?

6.8.1 Extent

Section 1.1.1 (p.12) of the paper makes reference to ancient woodland coverage of 0.02% of land in NI⁹². However, it is unclear whether this figure also includes long-established woodland as defined under the Bill.

The following section considers the extent of NI land that would be encapsulated within ancient and long-established woodlands and the 15m buffer. It appears that this area could potentially fall within the provisions of the Bill and therefore may be refused planning permission as suggested under Clause 8 of the Bill.

The figure and maps in this sections are produced by our RaiSe GIS Team. It uses published data from [Northern Ireland Ancient Woodland Inventory](#) (NIAWI) which covers all ancient and long-established woodland identified by The Woodland Trust project, '[Back on the Map](#)', undertaken between 2002-2007.

The Back on the Map Project uses similar definitions of ancient and long-established woodland to the Bill in clause 11(s.6.8 of paper). For example:

- ancient woodland are areas that can be shown, with a reasonable degree of certainty, to have been wooded continuously since 1600. The inventory defines three classifications of ancient woodland based on the evidence gathered during desk-based research and field survey. Which are broadly described by the [Northern Ireland Ancient Woodland Inventory](#) could broadly be described as: very strong, moderately strong and weak⁹³.
- Long-established woodland are areas of woodland continuously present since the first accurate, comprehensive mapping of the province by The Ordnance Survey in the 1830s⁹⁴.

⁹² Woodland Trust, [State of the UK's Woods and Trees 2025](#) Table 3(p.7)

⁹³ Woodland Trust [Northern Ireland Ancient Woodland Inventory View - Overview](#)

⁹⁴ Woodland Trust [Northern Ireland Ancient Woodland Inventory View - Overview](#)

- Members may wish to clarify with the Member whether the definition of ancient woodland under clause 11 includes all 3 categories of ancient woodland (regardless of whether the evidence base is very strong, moderately strong or weak) – as this may impact benchmarking the amount of land cover taken up by ancient woodland and buffers.
- The definition of ancient woodland under the [Northern Ireland Ancient Woodland Inventory](#) states ancient woodland are areas that can be shown, **with a reasonable degree of certainty**, to have been wooded continuously since 1600. Is this something that has been considered in the definition of the Bill?

For the purposes of this paper, the figures and maps use data for all three categories of ancient woodland under the inventory (very strong evidence, moderately strong evidence and weak evidence), plus long-established woodland and 15m buffers.

Table 5 shows the extent of land that would be taken up by ancient and long-established woodland (LEW) and their 15m buffers. This land could potentially be brought out of use for development with refusal for planning permission under Clause 8.

Table 5: Extent of land within ancient and long-established woodland + 15m buffer

Council	Total area excluding water bodies (Ha)	Ancient and LEW + 15m buffer (Ha)	% Land cover Ancient and LEW + 15m buffer
Antrim and Newtownabbey	57,065	614	1.08
Ards and North Down	45,704	612	1.34
Armagh, Banbridge, Craigavon	132,997	1,077	0.81
Belfast City	13,474	219	1.63
Causeway Coast & Glens	197,414	1,041	0.53
Derry City & Strabane	123, 395	1,214	0.98
Fermanagh & Omagh	283,739	3,673	1.3
Lisburn & Castlereagh	50,339	250	0.5
Mid & East Antrim	104,277	802	0.77
Mid Ulster	181,940	1,732	0.95
Newry, Mourne & Down	162,807	2,619	1.61
NI Total	1,353,151	13,854	1.02

Table 5 shows that around 13,854 ha, or 1.02%, of NI land is contained within ancient and long-established woodland and 15m buffers.

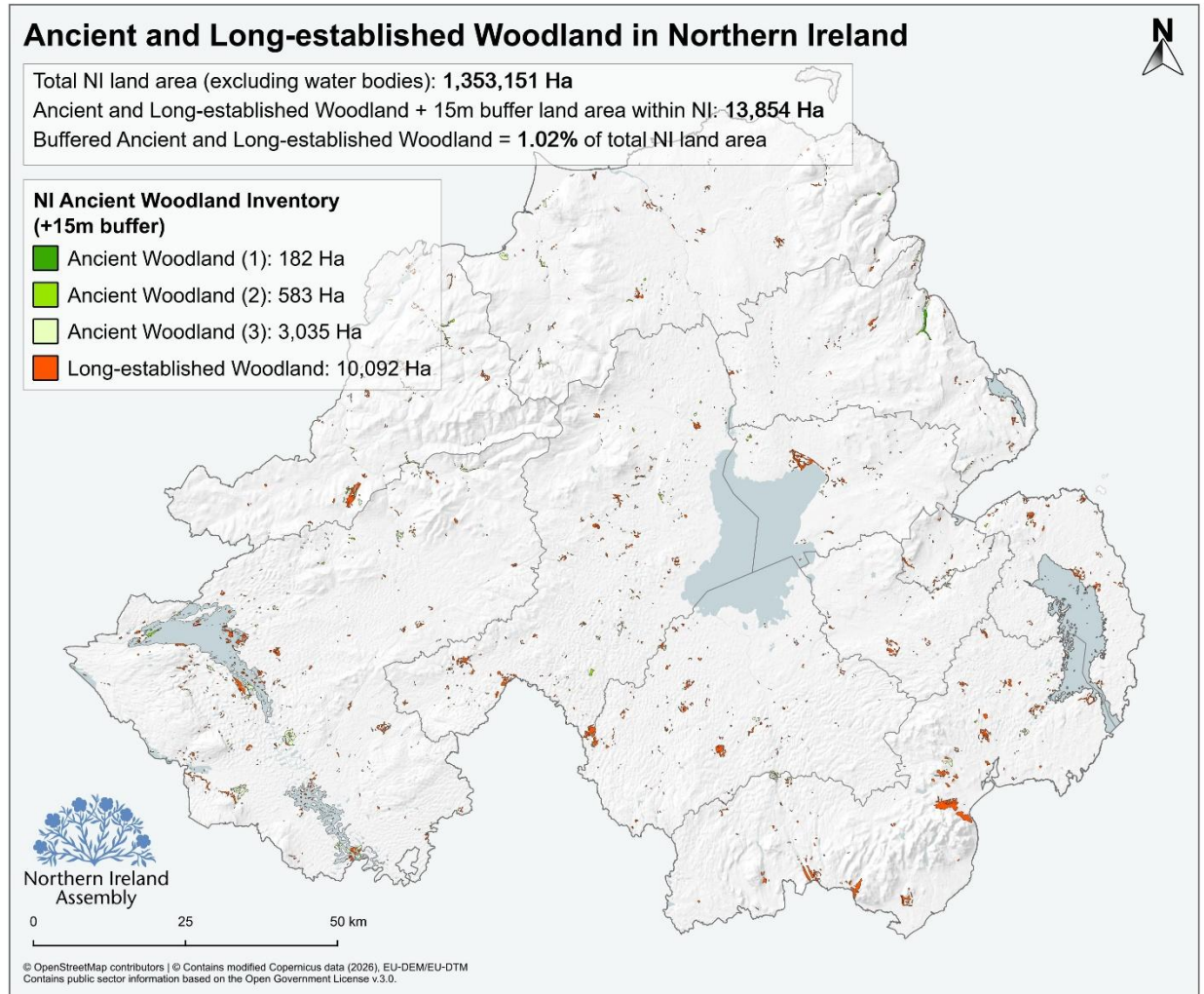
However, some areas may be impacted more than others, for example, of the councils, Newry Mourne and Down have the most with 1.61% of land, compared to Lisburn and Castlereagh with 0.5%.

Maps

Map 1 on the next page illustrates the distribution and extent of ancient and long-established woodland and 15m buffers across NI. These are marked by the green shades (ancient woodland) and orange areas (long-established woodland) which can be seen dispersed across NI in both rural and urban areas, apart from water bodies.

Map 1 also shows that long-established woodland and its 15m buffers seems to be most predominant across NI with 10,092 Ha. Compared to ancient woodland, especially ancient woodland 1 (with the strongest evidence base) with 182 Ha including 15m buffers.

Map:1: Distribution and extent of ancient and long-established woodland + 15m buffers NI



(Map by James Bamford GIS RaISe)

The detail can be difficult to see at the NI level, therefore maps are also provided for each of the 11 councils. These can be seen in the Appendix of this paper.

As already stated above, the maps show ancient woodland (all three categories: Ancient Woodland 1 (very strong evidence); Ancient Woodland 2 (moderately strong evidence); and Ancient Woodland 3 (weak evidence)) and long-established woodland (as shown and described in the [Northern Ireland Ancient Woodland Inventory](#)) plus 15m buffers.

Considerations

- Has the Bill Sponsor given consideration to the impact of planning refusal within an ancient and long-established woodland and 15m buffer? Particularly in relation to development potential versus the benefits brought to protecting these woodlands, their roots and habitats etc?
- Has the sponsor performed any impact assessment on the amount of land potentially being brought out of use for development, versus the benefits brought to protecting these woodlands?
- And the impact this might have on planning applications going forward?
- Has consideration been given to how this might impact development of new, and extension to current, critical infrastructure for example, roads, hospitals schools, housing etc? Or farmland looking to diversify or install renewable energy etc?
- What about impacts on outdoor recreation and forestry facilities with ancient or long-established woodland? For example, upgrades and development for access and paths/roads, facilities, educational facilities/spaces etc?
- Members may wish to consider with the Sponsor what the appeals process and exceptions under 'wholly exceptional' circumstances might look like? And where details of this will be provided e.g. regulations or guidance?

Appendix: Distribution and extent of ancient woodland and 15m buffers – Councils

(Maps by James Bamford GIS RaISe)

