



PORTFOLIO HOLDER DECISION NOTICE

INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR THE ENVIRONMENT

TOPIC – RESPONSE TO THE GOVERNMENT CONSULTATION ON PROTECTING AND ENHANCING ENGLAND’S TREES AND WOODLANDS

PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council’s Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the Head of Legal Services (Interim), the Chief Executive and the Strategic Director: Resources are consulted together with Chairman and Vice Chairman of The Overview and Scrutiny Committee and any other relevant overview and scrutiny committee. In addition, all Members are notified.

If five or more Members from those informed so request, the Leader may require the matter to be referred to Cabinet for determination.

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SUMMARY

The Department for Environment, Food and Rural Affairs and the Forestry Commission are seeking views on plans to introduce new measures for felling street trees and strengthening the Forestry Commission’s power to deal with illegal tree felling.

They have requested the views of Local Authorities on proposals to introduce four new measures which they consider will make it clearer who is responsible for decisions and what process they should follow. The four proposed measures are:

1. Introducing a new duty on local authorities to consult on the felling of street trees.
2. Introducing a new duty on local authorities to report on tree felling and replanting.

3. Creating best practice guidance to support local authorities in drawing up a Tree and Woodland Strategy.
4. Giving the Forestry Commission more powers to deal with illegal tree felling and strengthen protection of wooded landscapes.

DECISION

The recommendation is that the information summarised below and detailed in appendix i is agreed and submitted as the Council's response to this consultation.

A summary of the response is as follows:-

Winchester City Council supports the Government's intention to avoid the unlawful or unnecessary felling of trees. However the City Council believes this would be delivered more effectively by the adoption of a District wide Tree and Woodland Strategy. This Strategy would need to follow due Council process, receive wide public consultation and be formally accepted by the Council in some way, whether as policy or guidance. This Strategy would need to cover all aspects of tree management including tree planting, tree protection, acceptable works, tree felling, contractor procurement, engagement and consultation etc.

1. Measure 1 – introducing a new duty on local authorities to consult on the felling of street trees.

Winchester City Council considers it unnecessary to make a duty for local authorities to consult on the felling of street trees. The Council considers a duty such as this to be onerous, highly prescriptive, unable to respond to local requirements and ineffective as it would fail to ensure engagement is measured and proportionate. Winchester City Council would prefer to see a requirement to adopt a Tree and Woodland Strategy which in itself would be consulted on. This strategy would then include all aspects of tree management including planting and felling and the type and level of engagement needed for various works.

2. Measure 2 – introducing a new duty on local authorities to report on tree felling and replanting.

Winchester City Council does not agree that a duty should be placed on local authorities to report on tree felling and planting. The figures would only provide a very basic view of the tree stock and will not adequately reflect how effectively the Council is managing its trees. Again, the Council would prefer to see a requirement to adopt a Tree and Woodland Strategy which would include the Council's criteria for tree felling and planting and any monitoring deemed necessary to help inform future work practices and programmes.

3. Measure 3 – Creating best practice guidance to support local authorities in drawing up a Tree and Woodland Strategy.

Winchester City Council would welcome best practice guidance and any support the Government can offer to help Local Authorities write and deliver a Tree and Woodland Strategy. We consider that a sound Tree and Woodland Strategy which has been through the Local Authorities approval process will help negate some of the issues which have led to the consideration of a duty on Local Authorities as detailed above. The Council would welcome this approach as opposed to requiring consultation to be undertaken on every proposed removal of a street tree.

4. Measure 4 - Giving the Forestry Commission more powers to deal with illegal tree felling and strengthen protection of wooded landscapes.

Winchester City Council supports giving the Forestry Commission more powers to deal with illegal tree felling and strengthening the protection of wooded landscapes.

A more detailed response is provided in appendix i.

REASON FOR THE DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Whilst we are not required by law to provide a response to this consultation, trees are important to the Council and therefore it is appropriate that we provide a response which reflects our priorities and future direction.

RESOURCE IMPLICATIONS:

If the above recommendation is approved and the Government decide not to impose any duties other than the need to have a robust Tree and Woodland Strategy, there will be no additional resource implications for the Council, as this work is already included in the work programme for the Landscape and Open Spaces Team for 2019/20 onwards.

DATA PROTECTION IMPACT ASSESSMENT

None required

CONSULTATION UNDERTAKEN ON THE DECISION

Senior Officers and all members will be consulted via the Portfolio Holder Decision making process.

**FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED
FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION
NOTICE**

NONE

**DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR
OFFICER CONSULTED**

NONE

DISPENSATION GRANTED BY THE STANDARDS COMMITTEE

Not applicable

Approved by: (signature)

**Date of Decision
8 March 2019**

Councillor WARWICK – Portfolio Holder for THE ENVIRONMENT

APPENDICES:

Appendix i – Detailed response to the consultation on “Protecting and enhancing England’s trees and woodlands”.

Appendix i

**Detailed response on the consultation on “Protecting and enhancing England’s trees and woodlands” from the Department for Environment, Food and Rural Affairs and Forestry Commission.
Deadline 28.2.19**

Response from Winchester City Council

Thank you for inviting Winchester City Council to respond to the above consultation.

Winchester City Council supports the Government’s intention to avoid the unlawful or unnecessary felling of trees. However the City Council believes this would be delivered more effectively by the adoption of a District wide Tree and Woodland Strategy. This Strategy would need to follow Council process, receive wide public consultation and be formally accepted by the Council in some way, whether as policy or guidance. This Strategy would need to cover all aspects of tree management including tree planting, tree protection, acceptable works, tree felling, contractor procurement, engagement and consultation etc.

In relation to the questions raised by the consultation, we have the following comments to make:-

Q1 – Should a duty for local authorities to consult on the felling of street trees be introduced? Winchester City Council recognises the environmental value of trees and is investing time into developing better ways to manage them. We welcome the government taking a keen interest in ensuring the effective management of trees owned and managed by the Council. However we consider it unnecessary to make a duty for local authorities to consult on the felling of street trees.

Although any duty to consult on street trees will have greatest impact on those authorities who manage highway trees, there will be some impact on district councils like Winchester City Council. To this end we do not consider a duty to be the most effective way forward, as it is a highly prescriptive process and will not allow for discretion to ensure that any engagement is measured and proportionate to the works proposed.

Winchester City Council would prefer to see a requirement to adopt a Tree and Woodland Strategy which in itself would be consulted on. This strategy would then include all aspects of tree management including felling and planting. We would welcome guidance on this matter including details on what would be required of local authorities, with examples.

There is also an issue of raising public expectations and being clear about the role of any consultation undertaken. The inference from the guidance within the consultation paper is that whilst consultation may be required, local authorities could simply ignore the consultation results, which makes the process ineffective and unhelpful. Alternatively if the Council were forced to take a majority view, this could lead to inappropriate decision making. In addition, the consultation does not clarify if there will be a way of challenging a decision (from either the community or Local Authority perspective) as there is within the development management process. Again we feel this confusion would be avoided if the duty were on Local Authorities to have a robust Tree and Woodland Strategy which identifies the type and level of engagement required for various works.

Q2 – Do you agree with the proposed scope of the duty to consult?

If the decision is made to impose a duty on Local Authorities to consult, the City Council considers it is important that the scope is limited to street trees only, as recommended. However, the current definition of street trees is ambiguous and the City Council would expect this definition to be challenged on an individual tree basis, which could be time consuming for the Local Authority. Guidance or regulation will need to include a precise definition.

Q3. Do you agree with the government's preferred approach of a closed consultation with tripper points?

Again the City Council does not agree that a duty to consult is the best way forward. All three of the preferred approaches require resourcing and the City Council is already working hard to protect and manage our tree stock with limited resources. The City Council would rather see a duty to adopt a Tree and Woodland Strategy which it would be able to undertake within existing resources.

Q4 – In what circumstances do you think a tree should be exempt from the duty to consult?

Winchester City Council would advocate that the criteria for trees exempt from consultation should be included in a Tree and Woodland Strategy rather than having a national criteria which is considered too prescriptive.

Q5. Do you think it is appropriate that trees of special historic or cultural significance are subject to a more rigorous consultation process? Do you agree with the criteria for designating a tree of special historic or cultural significance? Are there any other categories which should be included?

The Council advocates that having an effective and approved Tree and Woodland Strategy and employing qualified arboriculturists would be the preferred method for ensuring the appropriate management of Local Authority trees.

Q6 – Do you think that the duty to consult will have any negative impacts on development? There is a possibility that the duty to consult will impact adversely on development as it may result in duplication of consultation. The City Council is of the opinion that any additional requirement to consult is likely to slow down development and put additional pressure on developers and local authorities. The consideration of planning applications already allows for an assessment of the impact of any tree works, as such matters are material in the decision making process and there are already opportunities for the public to comment on proposals for tree felling. Adding a further requirement to consult is considered unnecessary.

Q7 – Should consultations be done on an individual basis or in groups of trees?

Again this would be better included as part of the Tree and Woodland Strategy rather than through a duty to consult.

Q8 – Should a duty on local authorities to report on tree felling and planting be introduced? Please explain the reasons for your answer.

The Council does not agree that a duty should be placed on local authorities to report on tree felling and planting. The basic figures will not provide a full picture of the tree stock or the council's approach to tree management. Again, if a duty is to be placed on Councils it should be for the production of a sound Tree and Woodland Strategy which should include a range of indicators agreed at a local level.

Q9 – Which trees would it be useful to report on?

As the Council does not support a duty to report nationally it has no comment to make on which trees would be useful to report on.

As an aside, as part of the consultation guidance, reference is made to felling as a result of planning decisions. This is quite a tricky area to include and report on, as although applicants for planning permission should state as part of their application how many trees, if any, would be removed, should the development be consented, councils do not have the resources to monitor all developments that are undertaken once permission has been agreed. This would be an enormous task and would be needed if data collected is to be accurate. It is recommended that any reporting requirements if they are brought in should not include new development.

Q10 – What information do you think local authorities could gather and hold?

The suggested information of date; location; species and reason is appropriate. However, again we do not feel a duty to report this information should be required of local authorities but rather a local set of indicators and monitoring should be included as part of the Tree and Woodland Strategy.

Q11 – How could local authorities present this information?

Any method of presentation of information should be as simple and minimal as possible.

Q12 – Do you agree that Tree and Woodland Strategies help local authorities and the public to manage their trees and woodlands? Would best practice guidance be sufficient for local authorities and the public?

Winchester City Council would welcome best practice guidance and any support the Government can offer to help Local Authorities write and deliver a Tree and Woodland Strategy. We consider that a sound Tree and Woodland Strategy which has been through the Local Authorities approval process will help negate some of the issues which have led to the consideration of a duty on Local Authorities as detailed above. The Council would welcome this approach as opposed to requiring consultation to be undertaken on every proposed removal of a street tree.

Q13 – Do you agree with the suggested content for best practice guidance for tree and woodland strategies?

Yes the City Council agrees with the suggested content.

Q14 – Do you support the measures to strengthen environmental protection by giving the Forestry Commission more powers to address illegal felling?

Yes. These additional measures seem reasonable and appropriate.

Q15 – Do you think any other measures are necessary to combat illegal tree felling?

To continue to ensure there is sufficient resourcing within local authorities to employ trained and experienced tree and enforcement officers.