



· INSTITUTE · OF · HISTORIC ·
BUILDING · CONSERVATION

Making Heritage Work

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Dear Sirs

TREE PRESERVATION ORDERS: IMPROVING PROCEDURES

The Institute of Historic Building Conservation (IHBC) is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

The Institute welcomes the opportunity to comment on the consultation. Its responses to the questions in the paper are as follows.

Q1. Should copies of newly made TPOs, or variation Orders, be sent only to owners and occupiers of the land where the trees in question are situated?

Response. The Institute has some concerns about this. TPO trees are often situated on boundaries and/or have root systems which cross them. They thus can have an impact on neighbouring buildings including historic buildings which are often more fragile than modern ones. It is important that anyone whose actions might affect a TPO tree should be properly informed about the TPO. Such actions might include garden landscaping involving heavy work such as ponds as well as building work. The Institute accepts that the current Regulations take this requirement too far but would wish to see a more structured process than that set out in paragraph 2.7 of the Consultation Paper. In our view, guidance should be issued which makes explicit the sorts of cases where neighbour notification is required and the detail to be included. It is important that consultation occurs when TPOs are made, confirmed or varied, and when works are proposed.

Q2. Are the questions in the application form clearly expressed?

Q3. Do the questions appear in a logical sequence?

Response. Yes

Q4. Are we asking the right questions? If you think we should be asking other questions, please say why this additional information is required.

Q5. Do the guidance notes provide sufficient explanation?

Q6. Is there any other information which would be helpful to include as guidance?

Response. There is an implied assumption in the consultation paper that, in the case of tree damage to buildings, TPO works cannot be authorized unless actual damage has occurred. Because of their cultural importance, historic buildings should be protected from a real and imminent threat of damage. However, the Institute would wish to see advice on this carefully stated to avoid the impression that any potential threat to property justifies the removal of a TPO tree. Both the form and the notes should be amended to reflect this. There also needs to be tolerance of the submissions of amateur quality made by householders, particularly if these are made electronically on limited resources or expertise.

It is also worth pointing out in the guidance (paragraph 3.17) that, in addition to the issue of shrinkage, the removal of trees can have adverse effects on buildings because ground heave.

Q7. Should the supporting information to accompany TPO applications be specified, through the form, at the national level? Such requirements would be mandatory and apply to all relevant TPO applications.

Q8. Have we got the requirements right?

Q9. Do these proposals provide local planning authorities, at the outset, with all the information they need to determine an application?

Q10. Do they provide the right balance between the need for consistency and certainty while allowing some flexibility to respond to the individual circumstances of the case?

Response. The Institute is concerned that the proposed form and supporting information may be more than required in minor and obvious cases. For example, at present an application to lop a branch that is rubbing against a building can quickly and effectively be dealt with by exchange of letters as a statutory nuisance. The rules should be flexible enough to allow a common-sense approach to obvious cases.

Q11. Will the proposals make it easier to determine whether an application is valid?

Response. Yes.

Q12. Are there any other requirements which should be included? If so, please say why this additional information is needed.

Response. The Institute thinks it would be useful for the form to ask if any adjacent building is listed or in a conservation area (or included in the proposed unified designation regime). This will make it easier for the LPA and any consultees to assess potential impacts on heritage assets which are themselves subject to a statutory protection regime.

Q13. Is this fast-track [appeal] procedure fair and reasonable?

Q14. Does it strike the right balance between speed and quality of decision?

Q15. Can the process be further simplified?

Q16. Will it work for all types of TPO appeal, including appeals against tree replacement notices?

Q17. Should decisions on TPO appeals be taken by Inspectors appointed by the Planning Inspectorate?

Q18. Are there risks with this approach which have not been identified?

Q19. How might we mitigate such risks?

Response. TPO appeals are, for the most part, straightforward and are largely technical. The current appeal process, by not conforming to the norm for appeals under the planning legislation, makes little sense. The Institute is happy with the proposals and can see no drawbacks.

Q20. What are the likely effects of any of the changes on you, or the group or business or local planning authority you represent?

Q21. Will there be unintended consequences?

Q22. Do you have any general comment on the outcomes predicted in the Impact Assessment, in particular the costs and benefits?

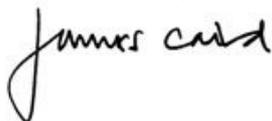
Q23. As an applicant or local authority, what are the current costs of applying for and processing applications for consent to fell or prune trees?

Q24. As an applicant or local authority, how are these costs likely to be affected by the proposal to introduce a standard application form? Where possible, please specify or estimate the costs involved.

Response. The Institute has no further comment to make.

The Institute would be grateful if these comments could be taken into account.

Yours faithfully

A handwritten signature in black ink that reads "James Caird". The signature is written in a cursive style with a large, looping initial 'J'.

James Caird
Consultant Consultations Co-ordinator