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## Getting involved in planning in Northern Ireland: **Protecting hedgerows, trees and woodlands**

**Hedges and trees are important wildlife habitats in the Northern Irish countryside.**

This leaflet explains what can and cannot be done to protect hedges and trees from development.

Key points are:

- Only a Tree Preservation Order or a nature conservation site designation can secure the long-term protection of trees, hedgerows or woodlands.
- The presence of nesting birds protected under the Wildlife (Northern Ireland) Order 1985 (as amended) can only delay, not prevent, the felling of trees, hedgerows and woodlands.
- There is no defined breeding season but generally 01 March to 31 August is accepted as the breeding season. Work to hedgerows, trees and woodlands can take place at any time, but the onus is on the person doing the work to avoid committing an offence under the Wildlife (NI) Order 1985 (as amended). Hedges, trees and groups of trees are always someone's property. Subject to certain constraints, outlined in this leaflet, the owner is allowed to do whatever they want with their property.

### **Protecting countryside hedges**

Hedgerows are an important feature of the Northern Ireland countryside. Some of our hedges are now 100-150 years old. With over half the fields less than 2 ha in size, in many areas the high density of field boundaries contribute a significant part of our semi-natural habitat. Hedges and their associated banks and ditches are the main habitat for native woodland and grassland wildlife on many lowland farms.

There is no specific legislation in Northern Ireland protecting hedgerows from removal. The Northern Ireland Biodiversity Strategy (NIBS) recognises the importance of field boundaries in maintaining biodiversity and recommends that advice and incentives are required to maximize the value of field boundaries as wildlife habitats.

Cutting farm hedges may not destroy them, although badly timed maintenance can damage or destroy nests, eggs or young chicks in the hedge.

In order to receive direct agricultural support farmers must ensure that land is managed in Good Agricultural and Environmental Condition (GAEC). According to GAEC, the removal of field boundaries is not permitted except by prior written permission from the Department of Agriculture, Environment and Rural Affairs (DAERA). In addition, hedge cutting, coppicing or laying is not permitted between 1 March and 31 August.

We advise that countryside hedges should be cut in January or February if possible, to allow birds to eat most of the berry crop in early winter, and to nest safely in spring.

The Wildlife Order does not give legal protection to hedgerows. However, it gives legal protection to the birds nesting in the hedge, and so intentional disturbance or damage to a breeding bird, its nest - while in use or being built, the eggs or young is a criminal offence. If Schedule 1 species are involved, including all birds of prey, there is a special penalty involved.

Consequently, the presence of nesting birds cannot prevent hedgerow removal, but can delay it until after the breeding season (see our leaflet "*Protecting birds from development*").

### **Protecting garden hedges**

Garden and amenity hedges do not have any specific protection and the landowner is more or less free to do whatever they like in terms of management and removal.

The only constraints are nesting birds (any action that would damage or destroy an active nest or a nest being built, the eggs or the young, must be delayed until after the breeding season); and the High Hedges Act (NI) 2011.

The High Hedges Act was introduced to help deal with issues between neighbours arising from evergreen and semi-evergreen hedgerows of two metres or more in height that act as barriers to light on residential properties.

### **Protecting individual trees**

The only way to give protection to a single tree or a group of trees is for the planning department of the local council to issue a Tree Preservation Order (TPO).

A TPO can only be issued on trees that have historical, landscape or amenity value in their own right. A tree with a TPO cannot even be trimmed without the permission of the local council. Unlimited fines can be issued on anyone in breach of a TPO and on summary conviction up to £30,000. A 'blanket' TPO does not give full protection to a woodland that falls within forestry regulations.

Information on TPOs can be accessed from the local council website. If a tree is felled despite a TPO, the council can insist on an appropriate replacement (size, species, location) as soon as reasonably possible.

The Wildlife Order does not offer legal protection to a tree. Since the Order protects active nests of all wild birds, it should prevent felling and many types of tree surgery during the nesting season, if the tree is being used by nesting birds.

If a tree is due to be felled, the presence of nesting birds can only delay the work, not prevent it. If the tree in question is old and contains hollows large enough to be suitable for bats, it is worth establishing whether a bat roost exists.

Bat roosts are fully protected all year round, and provide protection for the tree as long as the bats are around. Please note that a special licence is required to inspect bat roosts – contact the Northern Ireland Environment Agency (NIEA) or the NI Bat Group for assistance.

### **Trees, hedgerows and public safety**

Safety concerns can take priority. Dead, dying or dangerous branches or trees that pose an immediate danger can be legally removed regardless of birds nesting if there is no other reasonable solution, such as temporary closure of a path. Sadly, from a wildlife point of view, it is often the oldest trees full of dead wood, fungi and holes that are seen as dangerous.

The Department and public bodies can carry out or order hedge/tree trimming or removal if there is an immediate safety hazard.

Information on maintenance of roads can be accessed on the Department for Infrastructure website (<https://www.infrastructure-ni.gov.uk/topics/roads>).

In Northern Ireland clearance of trackside vegetation by Translink is normally done as part of safety maintenance. Further information can be found on their website ([www.translink.co.uk](http://www.translink.co.uk)).

### **Woodland**

In Northern Ireland, ancient woodland (land that has been continuously wooded since at least 1600) is particularly scarce and is found only in isolated fragments. These are of highest conservation and historical value.

Ancient woodland is not a statutory designation, and it does not afford the wood any legal protection, although some woodland may be declared as Areas of Special Scientific Interest (ASSIs). However, it is worth finding out if a woodland you are trying to protect is ancient, as this can add weight to your case. The Woodland Trust has an Ancient Woodland Inventory as a first step towards safeguarding these sites.

If you know of a threat to ancient woodland, please contact the Woodland Trust for advice on how to protect the site. Some ancient woodland may be protected as Sites of Local Nature Conservation Importance (SLNCIs). Check with NIEA or the local council.

If they are designated, the Local Development Plan or Area Plan should contain policies to safeguard them. If not, and time allows, it may be possible to build a case that demonstrates the woodland meets the criteria for designation as a local wildlife site.

While we have some remnants of ancient woodland, and a percentage of our woodland resource is managed for wildlife, it must be remembered that many woodlands were planted as a crop. The long crop rotation (some species can take 50 years to mature to felling age)

sometimes makes people forget that when the crop is ready to be harvested, the trees will be cut down.

Under the Forestry Act (NI) 2010 and the Forestry (Felling of Trees) Regulations (NI) 2013 a felling licence is required for felling trees in woodlands of 0.2 hectares or above and the applicant must submit a re-establishment proposal with their application. Some exemptions to this include felling fruit trees, tree topping, hedge trimming, trees in your garden, city park or churchyard and felling deemed necessary for a planning development which has been approved. Further information on exemptions can be found by contacting the Forest Service in the Department of Agriculture, Environment and Rural Affairs (DAERA). Since felling and replanting of woodland is the best time to influence the future wildlife value of the site, it is worth discussing your concerns or suggestions about a woodland with the Forest Service (DAERA) or conservation agencies such as the Woodland Trust.

### **Planning Conditions**

Planning approvals normally have conditions attached. If it is not possible to prevent a development from going ahead, you might be able to persuade the planning authority to approve the plan on condition that certain trees or an area of woodland is retained.

These proposals need to be realistic, as they can only be considered if the trees do not occupy the area the building is intended to go on. Planning permission granted on an area of woodland does not give permission to clear the vegetation on the site while birds are nesting as development must remain compliant with legislation. The Wildlife (NI) Order 1985 (as amended) overrides planning regulations.

Our advice is that tree felling should be avoided between 1 March and 31 August, but birds have been recorded nesting in every month of the year. Care is needed at all times to avoid committing an offence particularly as the term 'reckless' has been added to our legislation through the Wildlife and Natural Environment Act 2011 (see our leaflet "*Protecting birds from development*").

### **Woodlands and their management – is it good or bad?**

Woodlands can be wonderful for wildlife, but they can also be quite barren, depending on the species composition and management of the woodland.

If woodland is planted in the wrong place, it can ruin other valuable wildlife habitats. Over the years, there has been a lot of inappropriate planting of non-native trees, even within ancient woodlands. For instance, many upland heaths and bogs, habitats of high conservation value, have been lost in the past to development and afforestation. Removal of conifer plantations of low conservation value to restore heathland is a positive conservation measure, which will have long-term benefits for a threatened habitat and its rare wildlife. Removal of non-native trees within ancient woodlands can also have positive conservation benefits as long as it is sensitively managed. Removing these will allow the wood to develop a more native character, which suits our wildlife much better.

Many woodland management techniques look dramatic, and it is easy to understand that people are concerned for the woodland. You should bear in mind that sometimes felling and other tree work is carried out for beneficial reasons. For example, as a young wood grows and matures, the initial planting density becomes too great and the trees may need to be

thinned by removing a proportion of trees which leaves those that remain more room to grow.

Coppicing is an old management technique in which trees are cut to ground level, allowing them to re-grow from the base. This opens up woodland areas temporarily, allowing flowers and other wildlife to flourish, as well as providing a sustainable supply of wood.

Pollarded trees are cut regularly at about two metres (6ft), allowing them to re-grow from this point. The technique is often used on trees such as willows and poplars, often to extend the life of the tree.

