

18 SEPTEMBER 2023

PR9-23 | HEDGEROWS

Introduction

We are writing in response to the government's consultation on hedgerows.

The National Association of Local Councils (NALC) is the national membership body that works with the 43 county associations of local councils to represent and support England's 10,000 local (parish and town) councils.

Local councils and their 100,000 councillors are the first tier of local government, closest to the people, and play an essential part in delivering hyper local services, building strong communities, and strengthening social fabric.

Local councils cover two thirds of England and a third of the population and invest over £3 billion per year to improve and strengthen communities.

Summary

- NALC believes that hedgerows are important as (like trees) they are a hugely important environmental asset, absorbing large amounts of carbon and water, often in very isolated rural parished areas, and more should be done to protect them.
- NALC believes that [Schedule 1 of the Hedgerows Regulations 1997](#) should be updated so that there is a clear, transparent and more widely understood definition of a 'protected hedgerow' and an 'important hedgerow', and what evidence the local planning authority requires from people seeking to remove hedgerows. We are aware that in November 2016 the regulations were updated but this process did not go far enough in making the rules far more widely understood, with a better chance of being properly and more broadly implemented.
- We understand that the 1997 regulations specify in detail what can constitute an 'important' hedgerow. A variety of combinations of different criteria are possible: some relating to their position (e.g. alongside public rights of way); some to their historical significance (e.g. bounding an ancient monument or pre-Enclosure field system); some relating to the diversity of plants constituting the hedgerow ('woody species') or its verges ('woodland species'); and some relating to associated features (such as sitting on top of a boundary wall, or next to a ditch). Further criteria or qualifications relate to the length and number of gaps.

- We further understand that the 1997 hedgerow regulations largely apply to agricultural land, horse grazing land and any state-owned land, but not to hedges bounding residential properties. As above, we are not convinced, though, that these criteria are widely known or understood apart from by specialist technicians or those working regularly with hedgerows, so this process needs to be improved greatly.
- We know that there is no register or map of 'important' hedgerows. For instance Northumberland County Council's own extensive mapping of public rights of way, historical landscapes, protected open spaces, conservation areas, does not extend to 'important' hedges. We understand from the council's Ecology Team that it would require a huge amount of manpower to compile such a register, so whilst such an exercise may be desirable notionally, in practice we do not think it is feasible.
- We additionally understand that the onus is on each owner to judge for themselves whether any of their hedgerows meet any combination of the above criteria, to be considered 'important'. If an owner wishes to remove all or part of an 'important' hedgerow they must apply to the local planning authority (LPA) for consent. The LPA must then consult (amongst others) the local (parish or town) council before giving permission or refusal (we think it is important and necessary) that the requirement to consult the local council is retained).
- We also understand that at some stage in the process, hedgerow protection applications are uploaded on to the planning portal for the relevant LPA. We think that Department for Environment Food and Rural Affairs (DEFRA) Rural Payments Agency should in future keep a record of 'important' hedgerows on each agricultural holding for which it provides a subsidy. We also think that DEFRA should transparently clarify the definition of state-owned land for the purposes of the hedgerow protection regime – another case for greater regulatory clarity.
- We think that this is a very unsatisfactory system, which relies far too much on the ability and willingness of hedgerow owners to understand and interpret the very complex regulations, and to be sufficiently motivated to engage with their LPA. We wonder whether many LPAs, especially in small shire districts, have much capacity or expertise to administer the current system effectively.

- We suggest that there should be a role for local council and wider community involvement, in advancing hedgerow protection. It is not sufficient for our important tier of local government to be a consultee on the rare occasions when a hedgerow consent application is made. It seems sensible that local councils as local leaders should have a recognised role in future mapping/overseeing of important hedgerows (when 'important' is properly defined) especially where there are conservation areas and neighbourhood plans. We think that maintaining and managing hedgerows is important for the environment which is why we want to see future management take into account practical maintenance aspects such as a range of exemptions, including keeping field access points and rights of way routes clear and unobstructed.
- We understand that much of the responsibility for the delivery and enforcement of the Hedgerows Regulations 1997 rests with the LPA. They are responsible for deciding in the first instance whether a hedgerow is 'important' as well as mapping and the recording of important hedgerows, for example. We know that approaches, however, vary from one LPA to another, resulting in inconsistency and uncertainty. Any proposals to simplify the system and remove any uncertainty and inconsistency regarding the protection and enhancement of hedgerows are to be welcomed.
- It is our expectation that the government will want to take the simplest route to bring a new regime into operation, and that it will not pursue changes to primary legislation, which we would partly support.
- We continue to support the position that local councils must be consulted for the removal of protected hedgerows, with a retention of Regulation 5 (3) of the 1997 regulations, but as above with a more direct role for them, in advancing hedgerow protection.

Consultation questions

NALC's responses to the main consultation questions applicable to local councils in the consultation document are below:

Characteristics questions:

Q.11. Would you like your response to be confidential?

A1. No – we have no reason to request that our response is confidential.

Q.2 What is your name?

A2. Chris Borg

Q.3 What is your email address?

A3. chris.borg@nalc.gov.uk

Q.4 It would be helpful for our analysis if you could indicate which of these sectors you most align yourself or your organisation with (please tick or circle one which is most applicable to you):

- farm business (please specify)
- farm supply chain
- farm advisor
- retail industry
- manufacturing industry
- public body or local authority
- trade body
- academic body
- non-governmental organisation
- member of the general public
- other (please state)

A4. Public body.

Q.5 If you are responding on behalf of an organisation, what is its name?

A5. The National Association of Local Councils (NALC).

Q.6 In which part of the United Kingdom are you based? (please tick all that apply)

- England

- **Wales**
- **Scotland**
- **Northern Ireland**
- **other (please state)**

A6. England.

Q.8 Are you happy to be contacted in the future for further research?

A8. Yes.

Consultation questions

Q18. Where should we focus our ambitions for future hedgerows policy?

A.18. We think that this is a very unsatisfactory system, which relies far too much on the ability and willingness of hedgerow owners to understand and interpret the very complex regulations, and to be sufficiently motivated to engage with their LPA. We wonder whether many LPAs, especially in small shire districts, have much capacity or expertise to administer the current system effectively.

The government should place more emphasis on the importance of all types of hedgerows for absorbing carbon and water and do more to protect them. The current Hedgerows Regulations should be improved so that more hedgerows of importance to local landscapes can be protected by a local council, regardless of whether they meet the national 'importance' criteria.

Also, by adding protections on a local planning level or providing guidance on how LPAs and Neighbourhood Planning bodies can add policy protection to hedgerows, the process will be strengthened. This is not just due to the biodiversity opportunities and contribution to climate change mitigation, but also due to the significant contribution that hedgerows can have on a neighbourhood's character and appearance. Protecting hedgerows at a local level against residential developments that may seek to remove them can help to maintain the positive impact hedgerows can have on the air quality, biodiversity, ecological network, and character of the area.

Q.19 If we develop further protections, should we consider extending them to hedgerows outside of agricultural land?

- **Yes**

- **No**

- **Comment**

A.19. Yes. Providing that the current position that local councils must be consulted for the removal of protected hedgerows, with a retention of Regulation 5 (3) of the 1997 regulations, is maintained.

We suggest that there should be a role for local council and wider community involvement, in advancing hedgerow protection. It is not sufficient for our important tier of local government to be a consultee on the rare occasions when a hedgerow consent application is made.

LPAs and neighbourhood planning bodies should be encouraged to develop their own local protections as well for the reasons stated above.

There should also be greater publicity concerning the protection of hedgerows, and the sanctions for breach, in the interests of improving biodiversity.

20. Do you agree stop notices should be introduced, prohibiting a person from continuing a harmful activity? Stop notices can be used on their own or in conjunction with a monetary penalty.

- **Yes**

- **No**

- **Comment**

A.20. Yes. Feedback from our networks tells us that in areas such as rural Gloucestershire and many other rural areas where ancient hedgerows are common, they are a key part of the landscape. However, the county is also seeing a significant amount of housing development and developers tend to cut down these hedges with impunity, even if their retention is a condition of planning consent.

Whilst local councils can and do bring this issue to the attention of the LPA, by the time remedial action can be taken the hedgerow has long gone and even if replanted would take many years to regrow. With a stop notice, a local authority at least has the opportunity to intervene before too much damage is done.

For further information on this response contact Chris Borg, NALC policy manager via email at chris.borg@nalc.gov.uk or policycomms@nalc.gov.uk.

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