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Briefing Note on the DEFRA Consultation *Protecting and enhancing England's trees and woodlands* – December 2018

Summary

I welcome and support this Consultation as a recognition that a serious threat to our national best interest exists in the form of rogue local politicians mismanaging urban trees against the wishes of their local communities. Although this Consultation has a focus on detail, I believe that there is some value in stepping back to look at the strategic overview first, and fill in the detail later. I support the creation of a national tree and woodland strategy, as advocated and developed by Trees and Design Action Group (TDAG), with its core principles that tree value must be factored into built-environment decision making, and that it is compulsory for all local planning authorities (LPAs) to develop, publish, adopt, and follow an urban tree management strategy.

Within this national strategy, I am asking that serious consideration is given to:

- Creating a mechanism to facilitate legal challenge where there is evidence of community environmental asset (trees) mismanagement, to ensure that local people get a fair, independent, and balanced expert hearing of their concerns.
- National government creating a tree strategy template to assist LPAs in developing their own tree strategies.
- Establishing a national monitoring scheme based on local urban tree canopy cover trends to assess the performance of each LPA against the national aspiration.
- Developing a support mechanism for LPAs, highlighting best practice and disseminating innovative approaches that improve delivery.
- Creating a compulsory requirement for all LPAs to have a qualified tree officer to locally oversee and implement the national strategy.

Introduction

My area of expertise relates to urban tree management and I focus my comments on those issues, rather than the forestry aspects. Although it was requested that comments were framed in the context of a series of questions, I believe that there is a wider perspective that needs addressing first, and the detail set out in the questions is subservient to that overarching imperative.

Background

I welcome and support this Consultation as a recognition that a serious threat to our national best interest exists in the form of rogue local politicians mismanaging urban trees against the wishes of their local communities. There is irrefutable evidence that healthy urban trees

forming environmental community assets with decades of life left in them, which have taken generations of care to create, are being removed without proper justification. The most obvious is the industrial-scale street tree removals carried out in Sheffield over the last five years, but there are many other examples of similar mismanagement of public trees, not just in streets, around the country. Sheffield is not an isolated incident, which is why national government intervention is needed.

For several years, as an apolitical and neutral group dedicated to raising awareness of the role of trees in the built environment, TDAG has been developing the concept of a national tree and woodland strategy as a mechanism for improving the delivery of societal benefits from trees. The two central pillars of this initiative are that tree value is factored into built-environment decision making, and that it is compulsory for all LPAs to develop, publish, adopt, and follow an urban tree management strategy. The principal benefits of a national strategy are that it will improve interdepartmental coordination within national government relating to trees, and it will force LPAs at the local level to align with and comply with national objectives on urban canopy cover.

Principal point

There are some difficulties with the detail of the Consultation that I will outline below, but all of these can be resolved by stepping back and creating a simple overarching policy framework that facilitates widespread coordination of all efforts towards one principal objective, i.e. optimising urban canopy cover and integrating the management of urban and rural trees. That does not mean mindlessly filling every available space with trees; it does mean intelligent and balanced decision making based on the overwhelming evidence base that trees make people happier and healthier.

Despite all the good will and endeavours of professionals and enthusiasts, experience of past failures proves that increasing urban canopy cover will never happen without strategic guidance from central government through a combination of incentives, supports, and penalties, steering local decision making towards the national best interest. Central to this whole approach must be the legislative intervention to ensure that, as a last resort, local communities can realistically and easily challenge the mismanagement of community environmental assets, and get a fair, independent, and balanced expert hearing of their concerns. It is for the common good that, where local disputes cannot be resolved, local communities must be given a voice, and justice focused on the wider national interest must be seen to be done.

Duty to consult and tree and woodland strategies

Although well-intentioned, the duty to consult would be onerous for LPAs to deliver, and a disproportionate response to the problem. Of course, high profile cases catch the headlines, but there are many LPAs managing community assets responsibly and with the full

engagement and support of local people. It would be unfair and damaging to penalise the many managing to get it right because of the few who get it wrong. However, the fact remains that in the past there has been no mechanism for challenging mismanagement, and that does need to be addressed.

Drilling down into the problem, and specifically in the context of what went wrong in Sheffield, a pivotal issue was that there was no credible tree strategy, so there was no adopted reference framework of any substance to measure the reality against the aspiration. A competent tree strategy should have included a description of a credible consultation process for significant works, i.e. the removal of multiple trees, not just the odd tree, but that was missing.

There needs to be some sort of half-way house; formal consultation on every tree removal would be too onerous, but no requirement at all is clearly being abused and must be addressed. Accepting that emergency works will always be necessary, but that they could be dealt with by adopting similar rules to the existing exemptions set out in the TPO and CA legislation, the issue turns to routine management removals. Good and efficient management in all sectors dictates that there is a planned programme of works, and the management of urban tree populations is no exception. It would be relatively straightforward for all LPAs to develop a management plan and publish an annual programme of what tree removals are planned. This could be circulated to community representatives, e.g. parish clerks or tree wardens, who then disseminate to local people. A local panel could be drawn up to assess situations where a consensus is elusive, and a mechanism for dispute resolution could be designed as a final arbiter, e.g. the PINS model. This process could be easily described and implemented through a local adopted tree management strategy, providing the formal basis for legal recourse if it all goes wrong. Furthermore, the problem of mismanaging community tree assets is not just confined to streets, public trees in parks and other locations with no protection are also at risk. For that reason, any strategic approach must include all publicly managed trees, not just those in streets.

We know from research such as *Trees in Towns II* and anecdotal evidence, that there are many LPAs with no tree strategies. Although some clearly don't see it as a priority, and that is why legislation is needed to pull them into line for the national best interest, others do not have the skills or resources to create a strategy from nothing. It would be extremely helpful to these LPAs if the government produced a tree strategy template dealing with all the complexities, e.g. planting species palettes, consultation procedures, tree/infrastructure conflict resolution (see Figure 1), development tree management, canopy cover management, monitoring and recording of performance, methods of assessing tree value, etc. This would only need to be done once centrally, but would then provide an off-the-shelf option for LPAs to customise to their own circumstances, with very little local financial input. The big benefit with this approach is that the government centrally sets the base standard, which will deliver consistency across the country rather than the disjointed approaches that

seem to be the source of so many problems. There could also be a programme of upgrading existing strategies over time to improve the consistency in key areas, e.g. monitoring and performance, with the goal that all LPAs have an adopted tree strategy containing enough essential elements to comply with national objectives.

Government could also greatly assist a consistent improvement of national delivery by a programme of monitoring and assessment, with a mechanism for publishing the best performers as exemplars for those struggling with implementation. This has been a proven catalyst for improvement in the TDAG publications, where there has been a drive to identify good practice and promote it for those who need help in resolving their own difficulties. There are many examples of innovative approaches to common problems, and publicising them is a very effective mechanism for promoting and spreading best practice. TDAG has demonstrated the principle and it should be possible for national government to adopt a similar approach.

Resources are rightly an issue and all proposals must be able to demonstrate value for money. A compulsory need to consult on everything would be impractical without huge investment and it fails to give value for money when viewed in the context of what it is trying to address. A more strategic approach would be to clarify that the overall objective is to deliver improved urban tree canopy cover, and work towards that, tidying up the inefficiencies and inconsistencies (local mismanagement) in the process. Investment in legislation to set out a framework for success is a primary role of national government and there should be no objection to that. With a national framework in place, assisting delivery through promoting a tree strategy template and a mechanism for encouraging excellence would not require excessive central investment. However, if it is acknowledged that competent tree management on the ground is essential, then there must be provision and encouragement for tree expertise to be available within LPAs. All the best performing LPAs have tree officers, it's there to be seen. All the rest need tree officers if they are to contribute to and comply with a national tree and woodland strategy. Such a strategy would be a great way of having maximum impact for minimal input, utilising and promoting existing resourcefulness rather than trying to create it afresh.

Although my comments in this document are of a strategic nature, I illustrate the type of overarching guidance that could be provided in a strategy template to assist LPAs with conflict resolution in Figure 1. This flowchart summarises work being carried out under the TDAG banner in response to the failure of Sheffield to have any credible and competent published guidance on resolving infrastructure and tree conflicts. Work on this is ongoing and is included as an example of the type of strategic framework that government could provide to facilitate better decision making on the ground.

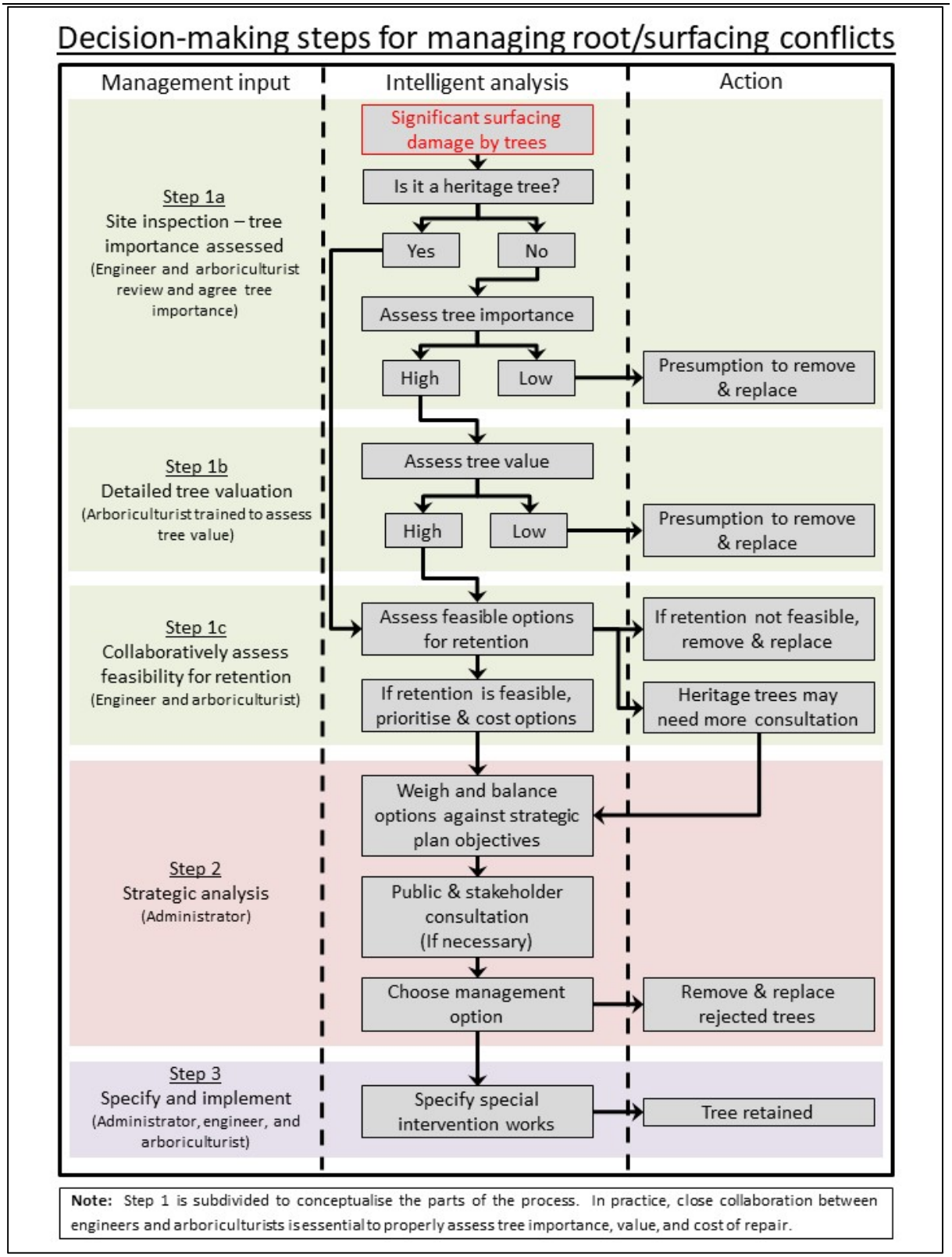

Figure 1: An example of the type of protocol that could greatly assist a balanced and fair decision-making process, in this case for managing tree and infrastructure conflicts.

As an aside, although it is detail to be dealt with once the strategic framework has been established, I comment briefly on special trees because they are specifically mentioned in the

Consultation, and it is a specialist area of mine. Trees can be valued by communities for a range of reasons and considered special (primarily for visual, cultural, and scientific reasons), above and beyond the bulk of average trees encountered in daily life. I call them heritage trees, but the name is not the point, they are special and worthy of special management consideration. Over the last decade, I have developed a method of assessing heritage trees called TreeAH, which can be reviewed here http://www.treeaz.com/tree_ah/. The point is that a mechanism already exists for assessing this aspect, and I draw it to your attention. I also attach Figure 2 below, because it is not formally published, as a conceptual summary of how heritage trees can be assessed and graded.

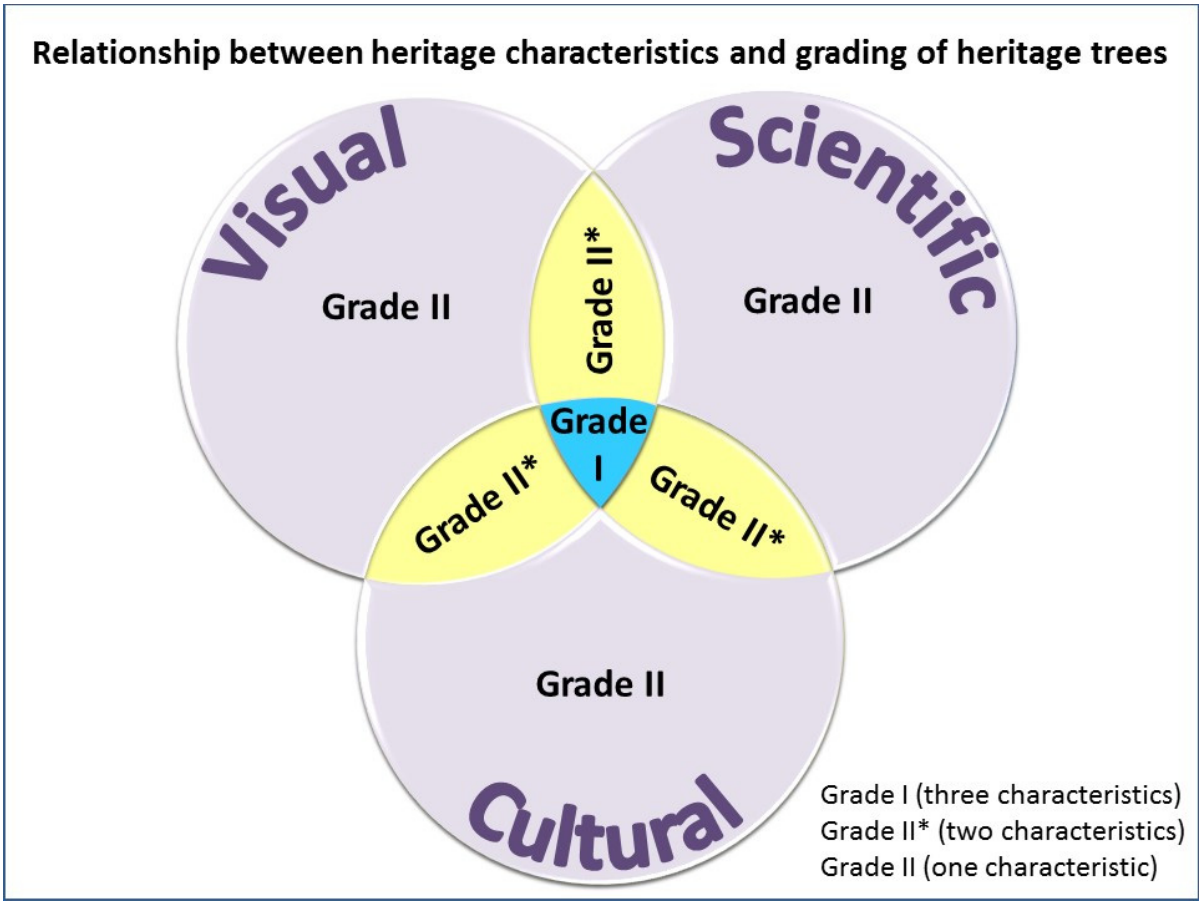

Figure 2: Conceptualisation of how heritage characteristics can combine to create a hierarchy of importance.

Reporting on felling and planting of trees by local authorities

While I can appreciate the desire to know the detail of the emerging dynamics of our urban tree population, a pure numbers-oriented approach will be hugely difficult to administer, be open to manipulation because of its complexity, and not provide value for money. Stepping back, the real issue is less about numbers of trees removed and planted, and more about changes in urban canopy cover. Of course, that is not a perfect measure either, but it is well documented that the flow of tree benefits is closely related to the extent of canopy cover, which is why this is probably the most appropriate metric to use. It is cheap and easy to assess, and it gives a reliable measure of changes over time, which is what is required. How

well are LPAs performing is what needs to be measured, not an unreliable and rather meaningless count of tree numbers.

More specifically, digital data provides the opportunity for LPAs to measure their canopy cover almost in real time for a few thousand pounds, which is very good value for money for the information that it provides. Furthermore, it is often available into the past, providing trend information, with the potential to continue assessments into the future as a direct measure of performance and comparison. If such a requirement was written in as a compulsory part of the tree strategy template, then within a matter of years, there would be consistent and reliable information across the country on canopy cover trends over time. This creates the possibility of analysis on who is doing well and those not so well, which in turn facilitates the identification of best practice, and the transfer of those experiences to assist the poor performers. Compared to the almost impossible task of reliably collecting data on dates of planting and species etc, this would present a very cost-effective way of understanding performance and focusing resources where they are most needed to support and improve failing approaches.

Jeremy Barrell
12th February 2019