

Protection of Countryside boundary features and amendment of the hedgerow regulations 1997

Wildlife and Countryside Link's response to DEFRA consultation paper - April 2003

Wildlife and Countryside Link (WCL) brings together 32 voluntary organisations, with a combined membership of approximately 7 million people in the UK that are concerned with the conservation and protection of wildlife and the countryside. Our members practice and advocate environmentally sensitive land management and encourage respect for and enjoyment of natural landscapes and features, the historic environment and biodiversity. Farming and Rural Development Group has long been working for the development of sustainable, environmentally sensitive farming in England.

WCL welcomes the consultation, as we believe that the protection given to countryside boundary features needs improvement and that this can be achieved partly through improved regulations.

1. WCL has concerns about the reference to hedgerows being defined using the Oxford English Dictionary rather than a more encompassing definition that includes traditional field boundary features. We think that the term hedgerow should include many traditional boundary features such as hedgebanks. All traditional boundary features should be protected by the legislation. Dry stone walls and hedgebanks are important both historically and ecologically and therefore should be given protection. Of particular concern are the very ancient hedgebanks of Devon and Cornwall, a high proportion of which are omitted from the protection of the Regulations altogether by the use of this very narrow definition.

In addition WCL has concerns that insufficient attention has been given to continuity of habitat, age and species structure in the identification of important hedgerows and boundary features, especially the role of ancient trees and relict ancient woodland. To achieve this we call for a national register of ancient trees and the Ancient Woodland Inventory to be updated.

2. 7.1 of the of the 2002 consultation guide to the 1997 hedgerow regulations states that only hedgerows over 30 years old will be provided with protection. The importance of historic hedges cannot be overemphasised and replanting of new hedges cannot be seen as a satisfactory substitute. However WCL is concerned that the 30-year-rule will not add any longevity to hedgerows newly created through agri-environment schemes (AES). We can ensure that the benefits of such schemes (paid for with public money) are not purely transient in a number of ways:

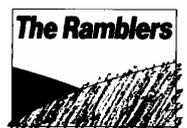
- Reducing the required age of a hedgerow
- Including hedgerows formed through AES as 'important'
- Mandatory compensation measures (replanting) for AES hedgerow loss but note that either in this case or in other proposed 'mitigation', in historic terms a new hedge is no substitute for an old hedge.

3. The consultation suggests 9m as the length of hedgerow that can be removed without permission.

- WCL sees this as excessive and feels it should be reduced
- This limit should also be expressed as a maximum to encourage the use of smaller gaps

4. The Government has no plans to increase the penalties for offences under the hedgerow regulations.

- Levels of fines should be increased to ensure that the deterrent effect continues. WCL consider that the level of fine should be comparable for that for trees under Tree preservation orders.



5. WCL recommends that local authorities should be given the discretion to allow the removal of hedgerow for overriding conservation purposes such as heathland restoration. However permission for removal should only be given if the hedgerow does not have aesthetic, utility, historic or biodiversity value.

6. WCL accepts that there could be value in giving Local Authorities greater discretion in determining additional important hedgerows. However it is vital that this does not lead to inconsistent decision making, dependent on the resources that each local authority is able to give to planning decisions that involve hedgerows. Effective, clear guidelines and criteria as to what defines a locally distinctive hedgerow would be necessary to avoid potential local conflict.

7. 8.16 of the 2002 consultation guide to the 1997 hedgerow regulations states 'the circumstances in which removal of an "important" hedgerow is allowed to proceed are likely to be limited. But the local planning authority might consider that the wider public interest was best served by removal of the hedgerow'. WCL feels that the word Limited is not strong enough and should be changed to exceptional. Circumstances that allow hedgerow removal should be rare.

8. There is also a strong case for rewording 8.18 of the 2002 consultation guide to the 1997 hedgerow regulations, as it also appears weak. Furthermore Link considers that in historic terms a new hedge is no substitute for an old hedge and that compensatory measures should not be considered as improving the case for removal, rather they should be mandatory if removal is allowed.

Therefore WCL feels that 8.18 of the 2002 consultation guide to the 1997 hedgerow regulations should be changed to:

"Cases involving individual business efficiencies or economies are unlikely to be sufficient to justify removal of an important hedgerow. The impact on the business would have to be extremely serious before the local authority should allow removal."

"If removal is allowed the owner or manager of the business must undertake to carry out agreed works to enhance the landscape, biodiversity or historical or archaeological interest elsewhere in compensation for the loss of the hedgerow."

9. WCL would support a proposal to extend the hedgerow regulations to boundaries of private gardens and golf courses, as hedgerow regulations should not be restricted to the farming community. The importance of a hedge is not dependent upon its surrounding land use. The list of proposed additions to the land uses to be covered is disturbingly non- exhaustive and there seem to be few reasons why it should not be expanded to cover all land. As an example, hedges around factories on greenfield sites, or the field patterns surviving in areas of coal mining are still excluded by the current proposed definition, and yet we can see no reason why they should be. Hedges in towns can be of high importance in either historic or ecological terms, and are often deeply valued by local people. Every effort should be made to bring ancient boundary hedges in towns within the Regulations.

10. WCL supports the proposal to extend the hedgerow regulations to classify hedgerows as important if they mark boundaries of a highway (i.e. roads or public rights of way).

11. WCL also supports the proposal that decisions to allow hedgerow removal should only be taken following a site visit and a check against all of the criteria in schedule 1 to the regulations. This should include decisions on appeals to the secretary of state, this would ensure that a site visit is required and all criteria are checked before permission for removal is given.

12. A system that requires "an application" rather than "notification" would be preferable (i.e. one dependent on receiving explicit permission for works).

13. WCL supports the proposal to add sycamore, Scots pine, sweet chestnut and barberry to the list of woody species in schedule 3 to the current regulations.

14. WCL welcomes the proposal to add a new schedule listing hedgerows considered to be characteristic of certain parts of the country. Local importance must be incorporated, WCL feel that LBAPS and Countryside Character Areas could be a useful tool in determining local importance.

15. Although WCL supports the proposal to include locally distinctive hedgerows as important we do not feel that this is legitimate cause to delay changes to the regulations. . As set out above, we would favour the immediate inclusion of hedgebanks within the scope of the Regulations. This, as the Countryside Agency found, is a locally distinctive type that is easy to define.

16. The Government's view is that a hedgerow's connections with other countryside features do not provide a sufficient reason for classifying it as important. WCL's view is that hedgerows are ecological conduits for species and should therefore be valued as such. Important hedgerows require buffering or widening to protect and enhance their biodiversity interest and potential to withstand environmental change. Furthermore hedgerows will be of much greater value in areas where there is a high density of semi- natural habitat.

17. We strongly agree with the proposal to list hedgerows as important if they are utilised by BAP species (listed under s74 of CRow act). In addition the species list should also include relevant species of those listed in part 1 of WCA 1981 on schedule 1, under part 9(4) on schedule 5, or on schedule 8 as amended by CRow, and those species listed as rare, endangered or vulnerable in the IUCN red data book.

18. WCL welcomes the extension of the hedgerow retention notice period from 42 to 56 days.

This response is supported by the following organisations:

Bat Conservation Trust
Buglife - the Invertebrate Conservation Trust
Butterfly Conservation
Council for British Archaeology
Campaign for the Protection of Rural England
Ramblers Association
Royal Society for the Protection of Birds
The Wildlife Trusts
Woodland Trust