



When is tree protection not tree protection?

Chair: Tony Kirkham MBE, author and former Head of the Arboretum, Gardens and Horticultural Services, The Royal Botanic Gardens Kew and TDAG Patron

Why are we losing too many trees for many different reasons?

Jeremy Barrell, Managing Director, Barrell Tree Consultancy

What does the law say and how can we improve tree protection?

Sarah Dodd, Founder and Director, Tree Law

Tree protection in practice? How protective are TPOS and Conservation Areas?

Jim Smith, Urban Forestry Adviser, Forestry Commission

The role of the local authority?

Cllr Simon Martin, Executive Leader, Fareham Borough Council

What about the wider community?

Laura Ancell, local resident

Partners: Arboricultural Association, Institute of Chartered Foresters, Institute of Highway Engineers

SUMMARY AND NEXT STEPS

One piece of feedback received after the seminar is that there was insufficient exploration of the wider issues and alternative solutions. Of course, we did not intend that this session would be the last word, rather an initial exploration. But, as one comment said *“I have been in LPA tree work for 25 years and we are having the same discussions now that we were in 1999...we need more talk about solutions not more discussions about the issues.”*

Step 1: The evidence

It was suggested in the chat that the first step is to collect data as to the numbers of trees removed unnecessarily – how many, what size, where, how many as the result of subsidence issues, how many from other causes and so on. There is work already underway by Fund4Trees and the University of Birmingham and it is interesting to note that Homes England is keen to have guidance on tree planting in living (soft) landscapes for specifiers, site operatives and supervising officers/Clerks of Works because of the apparent high failure rates of tree planting in new developments.

Step 2: Positive actions

As we understand it, Article 5 Certificates were removed by the Office of the Deputy Prime Minister under John Prescott because it was believed the Local Authorities were issuing far too

many of them for insufficient reasons. In 2018 TDAG proposed, as part of the England Tree Strategy, which became the England Tree Action Plan (ETAP), that Article 5 Certificates be reinstated with safeguards.

Now that trees are high on the urban agenda for their multiple benefits, there does need to be a review of how to address tree protection so that it is effective and workable and this could get a more positive response from both Defra and MHCLG.

Comments on what to do next included:

- The law needs to be rethought from scratch
- Total overhaul going back to first principles
- We need a revision of the tree protection regulations. TPO's have become an unwieldy monster for LPA's. It would be easier to have a blanket protection for all trees over 75mm and start again with TPO's.
- Why don't we lobby for better funded Local Authorities instead with actual oversight and accountability when they don't enforce and apply the legislation we already have?
- I have asked the leader of Havant BC to write to the Deputy Prime Minister and encouraged neighbouring Tree Warden groups to ask the leaders of their local authorities to follow the lead from Fareham BC and write to Angela Rayner.
- First hold your own MP's to account, local letter campaign and then write letters to ministers.
- I suggest a working group of NATO, AA, WT, NT, et al, all of whom have large memberships and high-profile members to sit down work out what exactly is wrong how exactly we fix it then robustly approach Govt to get realistic ways forward.

Added later: Other Pls such as the RIBA, IStructE, ICE could be encouraged to support along with the RHS and RSPB.

With sufficient evidence in place, the arboricultural and legal experts with support from construction, need to propose an effective way forward which is fair and enforceable so that there is a coherent case and proposal for consideration at the higher policy level (for all four countries of the UK).

From Alan Rowe: I am very happy to be a part of that as I have a very clear idea of how to proceed this and I have contacts in Parliament which may be useful?
For which, many thanks, Alan.

Next steps – Action

Following the report from Simon Martin and his (one-way) correspondence with Angela Rayner, the discussion focussed around 'what can we do?' This led to a proposal that the Arb Association could perhaps lead on a lobby of signatories to Ms Rayner or possibly A N Other minister. If an appropriate message was agreed upon, the Arboricultural Association would be happy to lead on presenting it to Government.

Other volunteers – please step forward – sue.jamesriba@gmail.com

Details of the 'chat' discussion continue below.

QUESTIONS, COMMENTS AND REFERENCES BY TOPIC

We have done our best to put comments in the right place! The most useful elements are the many references attendees have provided, otherwise all to be read in conjunction with the recording and the presentations.

National jurisdictions and varying geologies

One of the issues raised is that each country of the UK has different regulations under devolved powers.

As part of *Trees, Planning and Development: A Guide for Delivery* we included a Briefing Note on *Legislation, policy and guidance on trees and development throughout the UK*

<https://www.tdag.org.uk/trees-planning-and-development.html>

In terms of subsidence, there are geographical differences depending on geologies and so not all parts of the UK are similarly afflicted with subsidence issues.

Check <https://www.bgs.ac.uk/> for the types of soils (clay etc) most likely to be an issue

It was pointed out, for example, that they don't have a lot of subsidence in Scotland. Not unheard of but our clay soils are usually too gritty.

What is known is that cases of subsidence are moving northwards as extreme rain events happen more regularly.

The geographical range of subsidence claims may increase due to climate change but the general trend of subsidence claim numbers is actually down. The 'event' years of 2018 and 2022 returned significantly lower claim numbers than 2003, 2006 and earlier.

Wales: removing nuisance exception. Very interesting .So, is shortage of TPOs the problem here? England has 205,000 of them with Conservation Areas on top.

<https://www.gov.wales/preserving-trees-and-woodlands-new-regulations-html>

Have a look at the rationale, it seems sensible but traditionally the law avoided taking away common law remedies that a person could and should use when found to be nuisance. It's a dangerous step, especially if the Council doesn't have to pay for damage caused after application and before decision (which could include a long appeal period)...

Legal and legislation issues

2012 Regs 19(1)(c) allows an appeal; it doesn't necessitate a decision

s 198 (6) (b) of the Town and Country Planning Act.

1. Only applies to TPO trees growing on neighbouring land i.e. neighbouring land to the applicants/claimants property.
2. Enables applicants to undertake removal/management works to TPO trees which the applicant considers to be necessary to abate a nuisance.
3. Exposes applicants to prosecution in the event the authority believes any works undertaken were unnecessary and/or not the result of a nuisance – n.b. this is the primary reason why arborist firms submit applications which are arguably otherwise unnecessary (see example wording – Appendix I).

4. Enables an authority to refuse consent in knowledge that any subsequent compensation claim is likely to fail on basis its consent was not actually required and the applicant has failed to mitigate.

5. Enables an authority to refuse validation/determination of applications on basis the requested works are exempt.

- I've had Section 198 used to more or less put paid to the TPO where a proven nuisance is present per causation evidence... supported by Khan v Kane 2013, is there a rebuttal to this argument?

If monitoring shows the subsidence movement to be relatively minor [less than 15mm] then it can be argued Hortlink compliant management [50%+ crown reduction + biennial pruning] is a reasonable and proportionate response to mitigate risks of future movement (Robbins v Bexley).

- 15mm ! I would like to see you living in a house (of normal dimensions) with that magnitude of differential movement. (you wouldn't)
 - I'm looking at a crack in the internal wall next to me of 25mm. It's been there for some years, the corner of the block of flats was underpinned 25 years ago, a bit of movement since, an adjacent lime was felled despite this being a chalk hillside and the flats built on made up ground where a former building was. The prejudice against trees becomes absurd at times
 - Well that's why evidence is all important
- We shouldn't confuse 'subsidence' with what would have been considered maintenance

The Perrin cases addressed the nuisance issues \9perrin v Northamptonshire \cc
<https://vlex.co.uk/vid/perrin-and-another-v-792673305>

Any thoughts on mature trees in conservation areas which are lifting neighbouring driveways / pavers / paving slabs etc ? Is this perceived as a nuisance as they are causing physical damage?

Judgements sometimes get it right Network Rail v Williams, [2018] EWCA Civ 1514
In that case, however, physical damage to the buildings had actually occurred. It was not necessary to analyse the situation, and nor was the situation in fact analysed, on the basis of loss of amenity value prior to the physical damage of the buildings. Furthermore, unlike Japanese knotweed and its rhizomes, the branches and roots of a tree are not in themselves a hazard.

- Here was some great subsidence law clarification by the Supreme Court in the Davies and Bridgend case earlier this year (available to watch on Youtube!)

The Courts don't help by setting small fines for offences

Question - Any suggestions about what we can do? Where the tree is the cause of the damage but we cannot force them to implement mitigation without being at risk of the costs. Or is it simply the case that our hands are tied given the way the law works.

- The tree owner
- It will depend on the situation in each case. If a tree controller is refusing to mitigate, despite evidence, they may be in breach of their common law duty, in which case most

claimants will seek to deploy other solutions and claim back expenses i.e. root barriers/piling etc.

- Then that could be contributory negligence, once known and not taking action.
- Common Law is not applicable to TPOs Trees in Conservation Areas as this is under Primary Legislation unless the person is employing the s.198 (6) (b) exemption but not to simple encroachment, where this does not apply
- Presumably where consent notice is served and the controller still refuses?
- Then that would be contributory negligence, potentially
- Do we have real transparency on mitigation costs to buildings...there seems to be a tendency to overprice the work in many instances?
 - I've noticed that too! Lots of overstated repair costs I see in quantum packs.
- LPAs can take separate actions under the Proceeds of Crime Act in addition to actions under the TCP Act. There are cases where this has been done,

Question for Sarah - does the law take a different view if the tree was in place before the building (assume low rise) was built i.e. insufficient foundations for the house not taking account of the tree?

- I know that's a hot topic and the answer is on a sliding scale. The 'egg shell' skull theory in law however means that it can be the situation that the LPA has to 'take their victim as they find them' and, just because the house is more susceptible to subsidence due to shallow foundations then they have to bear that consequence. It's not a one-size-fits-all answer though so it will depend on age of house, depth of foundations and knowledge
- Simple refusal on the basis that removal of this one Oak tree would not result in long term stability of the building. Based on the number of trees within influencing distance. Historic Building Control records should show whether or not the foundations were built as they were supposed to be. I have had submissions where this is not the case.
 - From Sarah Dodd: Not a straight forward answer here.
 - From Jim Smith: I think if they did this they might get pursued for a proportion of the quantifiable damage. My understanding is that a culpable tree finds the foundations as they are on the day as it were. If the builder's met Building Control Regulations as they were in the 1980's that argument may not stand up
 - Our Oak was part of an Ancient Woodland, we have a 1980 BC Surveyor record that movement was likely and so the damage was potentially foreseeable

The home owner has also got a massive Oak only 5 metres from his south facing living room windows. The problem here is not the tree, it's the fact that the house is too close

Idea for law/regulation change: somehow apply BNG to tree felling?

Local plans and policies

In Cornwall we have a Canopy Calculator requiring canopy cover on all developments of 9 units or more as part of our climate emergency DPD

Comments relating to TPOs

I've had a TPO served on 2 street trees, which was sheer bloody-mindedness

TPOs can also be served on highway trees where someone is using s211 to do "tree works in a conservation area" in order to remove highway trees that are interfering with their desire for a dropped kerb.

- Which made **entirely** no difference as the Highways People had control over the situation, as they still have.
- The biggest issue with TPO is lack of enforcement action to lack resource. It doesn't help there is no definition of amenity in the T&C planning act so reason for placement and refusal are subjective depending on the author
 - In some cases the fine is less than the cost to deploy alternative solutions, so I guess some people just take their chances and fell contrary to the TPO?
 - Stronger enforcement requires LPAs to ideally have specialist Arb Officers
 - TEMPO is a useful tool for equating some of the considerations for amenity, LPAs also must consider impacts even if less than substantial to the character and setting of a CA
- **As we have limited resources which are likely to only get smaller maybe we focus resource on getting better outcomes through the planning process and focus less on the illegal removal of individual trees....Discuss**

Trees with TPOs get taken down in Rother to expand driveways and pre planning applications for roads. No new TPOs granted at all

The biggest problem IMO is that TPOs are served on undeserving trees....

[Added afterwards: wasn't it this misuse of TPOs and especially Article 5 Certificates that cause John Prescott to remove them? Time for a rethink on these?]

From James Gregory: I did my dissertation on if the criteria for placement of TPO is wide enough given modern understanding of socioeconomic benefits and climate change. Must look to get it published in Arb Journal

Trees with time may become dangerous. Who is responsible for the branch that has fall off a tree with a TPO that has cause harm to a person? and if there was a refused request to do some Arboricultural work? and if the trees are affected by die back and this falls?

- **From Sarah Dodd:** Again, not a straight forward answer. Danger is another exemption to the TPO protection so, if the tree owner knows the tree is dangerous then they will have a duty to take action to limit the risk imposed by the tree

Are there any cases of trees with treehouses causing subsidence damages on another house? Could treehouses help protect TPO'd trees?

No default protection for ancient woodland or vet trees (below need for FL) despite the emphasis that they are irreplaceable habitat. This needs to be considered. We (LPAs) can only effect control by TPO or where they come into the development sphere

- An Article 4 for the woodland and any buffer zone, perhaps

Applicants have an option to appeal a TPO refusal to the Planning Inspectorate but this is rarely explored

TPO delays: We make TPO applications every week of the year for root barrier installations (2 today, 1 more to go in before 5pm). We habitually have push back from local authorities insisting on additional (and unnecessary information), huge delays in validating the applications (one submitted in June was validated yesterday for example), a failure to reach a decision or even notify us when they have! These installations are fully funded by insurers and are saving literally thousands of trees a year. The lack of consistency in how LPA's administer TPO's is very frustrating, not least for the concerned homeowners who's houses are cracking.

Local Authority Resources and attitudes

Not only do local authorities not have the resources to fund claims against them for tree damage, but many appear also to have limited resources when it comes to issues such as enforcement.

- 1 person for trees covering a big city doesn't work - there is missing link when planners and building control go out on site - maybe 'post condition planners' to ensure everything is carried out as per approved plans - but then again, I have seen utilities come in one day and rip up 50% of a beech tree etc
- Enforcement is resource driven and often is thought around cost if loose
- **More tree officers**, more arbs, more tree surgeons, more local tree nurseries etc get the teenagers and youth involved

Many enforcement and legal departments within LAs do not see the value of trees so there is a lack of appetite

Tree value

Is Cavat still the best system for evaluating value? what are the experiences people have with the method?

- Revised CAVAT system is yet to be rolled out
- Re CAVAT, do you need to be trained to use it, in case of claims for compensation where a LPA refuse the felling of a TPO tree?
 - CAVAT training programme due to be rolled out in 2025.
 - MTOA are facilitating training. training@MTOA.co.uk
 - CAVAT is great only for LAs. Entirely one-sided
- CAVAT is not of use to defining the quantum of compensation. It is used by an LA to work out whether they wish to retain a TPOd tree.
- The much-missed Dave Lofthouse gave Merton Tree Wardens [and others] a day's CAVAT training - whether this would be considered adequate in this context I've no idea... but it's a suggestion for other TO's?
- CAVAT is great but I also like the UBoC study at Leeds for carbon sequestration parity for trees lost to development, providing the quantum of replacement https://www.duramen.co.uk/amenity_tree_valuation.html
- And CAVAT is not compatible with the findings of the courts i.e. Bryant v Macklin https://www.duramen.co.uk/amenity_tree_valuation.html
 - Is there a Court-accepted method of valuing trees?
 - I have used CAVAT 3 times in Magistrates Courts

- CAVAT can be used to compare the value of the tree to the value of works put forward by the Insurance Company
- When considering the value of a tree when deciding on any application to fell - shouldn't we also consider the future potential value of that tree too?
 - In terms of the 'carbon' value of a tree, my personal view is that the value at maturity should be the one to use. That's my personal approach though
- Beyond amenity value - hurrah if they are moving away from the outdated 'amenity' reason for protecting trees.

Community benefits

It is recognised that the benefits provided by many urban trees extend beyond the site on which they are growing.

If action by an owner results in loss of amenity due to felling a healthy mature street tree or their insurer should pay compensation

There's an Oak at the end of my garden 12 metres away from houses. It belongs to my neighbours. Does the community want to pay for it to be pruned every few years?

- Maybe there are adjustments to council tax for the public benefit that the owner is looking after?????
- Ultimately the decision is going to be who pays. If we want a world where these trees are retained the money has to come from us all through the council and our taxes, or (again) through us our insurance premiums.

Role and actions by insurance companies and possible subsidence solutions

Association of British Insurers data had around 20,000 claims in 2018, an event year. 2023 it was around 12,800. This year will be another year of low claim numbers, good news for trees.

In terms of insurance company reviewing the case what exactly is carried out and by whom (an arborist I assume). Would grass and soil be removed in a hand dig approach - use of air spade to prevent root damage - wet hessian wrap around roots etc? If the foundations are not constructed properly and there are opportunities for roots to explore, it seems very unfair to punish the tree.

Perhaps constructing the building close to trees there should be belt and braces approach such as installing root barriers, but first aspect for design is to build structures, in particular habitable structures away from trees and consider a tree's established size and canopy spread?

- Often the issue is with the older properties which have shallow foundations or properties which have additions added (eg, porch, conservatory, extension) built on different depth foundations, leading to differential movement
 - What does the word "correct" mean?
 - Foundations that can work with tree roots.
- Putting in the right kind of foundations if either existing tree or proposed trees as a starting point?

- I'm interested in understanding how to question the foundations of developments to make sure they are compatible with tree preservation
- Exactly - foundations especially of extensions are inadequate yet the tree gets felled.
- Can retrospective installation of root guards be an alternative to subsidence protection
 - Aren't root guards/barriers short term answer?
 - Root barriers can be used. It would still need consent from the LPA before a root barrier could be installed as it will involve the risk of cutting some protected roots
 - Root barriers don't stop subsidence
- So many trees up here are compromised by building within the RPAs of trees
 - Suitable for the site upon which the structure is being built including assessment of nearby "hazards", and in accordance with best practice/regs
 - NHBC 4.2 is the best guide and it would be good to see an early appraisal in Arb Impact Assessments
 - RPA encroachment, ground level changes, foreseeable future conflicts
- Strip excavation / pile and beam / screw piles / cantilevers etc - but obviously there is certain species which are shallower and 'aggressive / exploratory' (poplar, willow, certain conifers etc) - but we need to think about creating a harmonious relationship between distance of structures / private amenity spaces and existing mature trees - often it is the need for more house on sites creates these problems
 - Try telling that to planners who have to consider the demands of government policies re housing targets etc.
- I was external examiner for a professional PhD by a Chartered Architect who is also a chartered arboriculturist and he demonstrated the ways that buildings, with correct foundations to accommodate tree roots...without damaging them...so press for this!!!
- Remediation work: Companies trying to make a profit. Felling can be better for climate than pumping concrete under a house. It's a difficult message to swallow

Added later: pumping lots of concrete is not the only solution.

What about heave caused as the result of tree removal. Can a claim be brought against the council if they gave permission to cut down the tree causing heave?

- Engineers typically take account of possible heave in deriving the solution
- Councils have no exposure to the issue of heave in cases where TPO permission is granted
- Could a neighbour put in a nuisance claim of damage caused by heave?
- I always put that on the person(s) seeking to fell, and seek heave assessment & indemnity. Also a controller can't be expected to remove one nuisance only to rise to another. At least that's what I've done to date anyway.

Is the LTOAs Joint Mitigation Protocol being widely adopted by LPAs?

- From Sarah Dodd: The JMP is different from this sort of situation. The application isn't asking the LPA to 'mitigate'. It's the tree owner who is to mitigate the loss but they are prevented from doing that by the planning protection.

I wonder if anyone has any insight on the 10 standard questions the insurance company drop on us every time they make a subsidence claim in relation to one of our trees?

It's a huge ask beyond any FOI or EIR request. An insane amount of work to put together – especially when you are a large landowner. The questions to avoid talking at cross purposes...

- Insurance Documents to be Disclosed
 1. Council tree maintenance records for XXXXX (“the subject street”) since 2009.
 2. All documents relating to the implementation of the Council’s tree maintenance policies since 2009.
 3. All documents relating to any risk assessments or plans undertaken in respect of the Council’s vegetation within the subject street, since 2009.
 4. Confirmation of any other complaints or claims from residents regarding the vegetation within the subject street since 2009 (Jacqueline Robbins v London Borough of Bexley).
 5. Any technical or engineering evidence, report, survey or opinion obtained in respect of the above.
 6. Subsidence risk plans for the postal area of ‘XXX X’.
 7. Details of correspondence between the Council and residents within a 0.5-mile radius of the risk address regarding any vegetation under the Council’s ownership, since 2009 (Jacqueline Robbins v London Borough of Bexley).
 8. Details and dates of any tree removal or maintenance within the subject street since 2009.
 9. Evidence of reported areas where subsidence is a risk.
 10. Details of hotspots in the ‘XXX X’ area.
- You can moderate, all you really need are 2 things, past inspection & maintenance and records of previous claims, the rest is noise.
- CPR 31.7 the Claimant solicitor can only request records that would become available from a reasonable search and would be material to their case. So you can discuss with them to moderate reasonably where necessary. I'm in TP defence too, so get the same issue.

If people claim "excess seasonal movement", what is "normal seasonal movement"? If there's five trees and you remove one, does it bring it to "normal"? Who decides what is normal?

What's the use of arb reports anyway, all they do is say 'it's an X tree, it's Xm away, it's within influencing distance so we've concluded it's the cause'. I've seen these reports making this conclusion without the site investigations having even been done!

- In 25 years, I've never seen an arb report argue with the conclusion of the engineers report, not matter how flawed
- I guess unless you have someone who is both an arb and a civil engineer, it's difficult for an arb to make much comment other than the quality of the tree.
- In terms of subsidence etc / planning applications to construct dropped kerbs adjacent to street trees no one knows about roots until you open the ground up and see what is going on for a sensible solution - a report is generally carried out above ground and insurance companies write methods in 'threatening tones' similar to parking fines etc -

can roots be pruned? can root barriers be installed ? can foundations be amended / strengthened etc

- The problem with an arb report is that they are arguing to support the insurance companies view That is a flawed way of working As they will not bite the hand that feeds
- All Arb reports I've read recently are written on the assumption that the cause has already been established as vegetation related subsidence by the engineers and technical assessments. They are not stating that they think the trees are causing the damage, just that if the damage is being caused by trees, the identified trees are the likely culprits.
- In terms of arb reports... from a planning application view many ask they arbs will monitor and review on site and during works etc - how many times does this actually happen and a finalised report has been submitted with photos as evidence of all parts of the construction stages / installation of geocell etc / fencing erected is submitted to council - then utilities come along and drive cables and gas through roots
- We have an open market for property - residential tree owners and neighbours tend to have chosen to buy with trees in place and the price paid will have reflected the benefits and liabilities.

Not sure Jeremy is right to target the insurance companies... they are operating within the law (I hope).

- Jeremy is again way off the mark - insurance companies are not doing anything illegal. They are operating within their parameters
- "Insurance companies" may set the framework for decisions but arborists are making these decisions, not "insurance companies"
 - That's not strictly true. Arbs will "recommend" a solution not decide on it per se, i.e. felling, their Insurer client then pursues that, sometimes aggressively, even where their own insured doesn't agree with the recommendation to fell. And if a controller resists, the insurers deploy other solutions and sue the controller for it.
 - Not true. Almost all claims are handled by loss adjusters/claim management companies. Insurers will only get involved once a policy holder "complains"
 - Their insurer clients set their KPI's/SLAs, so by and large the insurer is the one in charge, even in subrogation since they have the right to "step into the shoes of their insured"
- Indeed. If there was no insurance for subsidence there would be no subsidence claims!

Added later: Subsidence was first added to household insurance policies in 1971

(<https://stophomeinsurersfellingtrees.org.uk/understanding-subsidence/>) See also

Subsidence (2023), Institution of Structural Engineers

<https://www.istructe.org/resources/guidance/subsidence/>

Experts disagreeing! We need to be clear about what is what, otherwise we are all potentially at sea on these issues!

- Can tree owners counter claim for CAVAT against the property owner/insurer insisting on tree felling?

From Sarah Dodd: Whilst this feels like it should be an option, the answer to this is no

- The insurance industry knows how to 'work the system'. TPO legislation is not fit for purpose when it comes to subsidence.
- The insurance industry is about making money, therefore the cheapest option is favoured, hence felling and not underpinning

A redraft of the law could remove the pressure from the insurance industry to remove the tree. WE need to force removal of concept of tree as the trespasser/ culprit.

Tree loss, retention, canopy cover and carbon sequestration

Street trees also lost on turning front gardens into car parks.

- Why are vehicles allowed to cross footways? I thought footways were for pedestrians...Sarah, any insight here?????
 - This is not a given. LPA should be protecting planting pits. Another case of Primary Legislation out-ruling Common Law (Highways Act) so no you don't need to provide a crossover
 - To the best of my understanding, vehicles not permitted to drive on pavements unless a dropped kerb (so access to properly planned and agree drives is exempt), but there's nothing about parking on them (and it's such a minor issue for traffic police compared to everything else, it doesn't get tackled)
- Again council should be preventing this as it causes flooding

Which is why we should pay more heed to carbon sequestration parity models and the number of trees needed to replace that which is lost, rather than waiting 25 years to grow to size this should be done at day one and if not onsite then offsite via s.106. We don't have the time to wait 25 years and it would be counter to many LA climate commitments

- In relation to BS 5837 to create a climatic argument for retaining trees, Mapscape automatically calculates carbon sequestration as part of the BS tree survey process as described at: Carbon Accounting - we do have the carbon calculations and canopy growth projections for new tree planting produced in collaboration with the University of Liverpool which we will move into a testing environment in the New Year. If you'd like to find out more, please contact me direct: 01244 630808 Cheers, David
www.mapscape.co.uk
- UBoC has undertaken significant research with Leeds University on sequestration of trees at different stages and in different condition classes
 - Individual trees in urban areas are most useful for climate adaptation (protecting us from high temperature, holding rainwater in their canopy) rather than sequestering carbon

"Alarming loss of trees": any data to support this, or just a general fog of confusion?

[Added later: Fund4Trees is just completing a research project on this and there is further research at the University of Birmingham]

... or the failure to look forward. The development might be fine for now and an appropriate distance away, its in 20 years' time there might be an issue, hence why they should build with the future and maturity of the trees in mind, but rarely do, not sure if that's the LPAs issue or the developer's?

On every tree felling request I get it's robustly resisted until such a time that the law says "if you keep it, it'll cost you"

Jeremy is way off the mark here. Arboricultural advisors are objective - the situations are often difficult and misinformation makes the Arboricultural advisors look biased, when in fact they are telling it like it is - not how others would like it to be

We're seeing this a lot more with people not getting their way and then turning to insurance claims of damage to get their way.

Biodiversity

Nobody seems to be talking about the loss of trees (and other vegetation with associated biodiversity loss) as a result of Permitted Development. At a local level, what I see is significant, so at a national level it must be huge. PD allowance is ridiculous and contrary to 'green' aims. Also, when it comes to TPO trees, householders seem rarely aware that PD rights don't override a TPO, and damage occurs.

Design

Investment in design can also contribute to integrating with existing trees...and making compatible space for new trees

Replacement trees

In terms of replacement planting does the planning legislation not state to 'plant a similar tree within a reasonable timeframe' it is quite vague - tbf homeowners look at things such as distance to travel for a replacement tree / cost etc

- Local councils should look at opening tree nurseries - job creations - reduce replacement tree planting passport mileage - locally grown trees will be cheaper and carry less bio security threats
 - This is already in place in some places, and isn't as easy as it first appears - it's really difficult to get the right accreditation, for example

In the case of the mature Fareham Oak tree, the recommended replacement tree was a Himalayan Birch – not quite similar!

NI Planning Act 2011 - section 125 under Chapter 3 - Replacement of trees

125—(1) If any tree in respect of which a tree preservation order is for the time being in force—

(a)

is removed, uprooted or destroyed in contravention of the order; or

(b) except in the case of a tree to which the order applies as part of a woodland, is

removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is

authorised only by virtue of section 122 on the grounds that it is dying or dead or has

become dangerous, it shall be the duty of the owner of the land to plant another tree of

an appropriate size and species at the same place as soon as the owner reasonably can

Designing with trees
Held on 20th November 2024. Questions, comments and references
Partners: AA ICF, IHE