

The Woodland Trust established a database of ancient woods under threat in 2000 and has maintained it ever since. It shows that throughout the UK there are currently **over 400** ancient woods which are subject to a current planning application which could physically damage them, fragment them still further or even destroy them entirely.

In summary, there are a number of mechanisms which may protect woodland, but there is a hierarchy of legislation, some of which can override other elements. So - for example - planning permission, once granted having been subject to scrutiny of various processes, overrides forestry legislation. A top-line summary is that while we are certainly one of the best regulated countries in the world regarding forestry and woodland removal, Defra ministers have made a big play out of the protection of the existing resource which is extremely small - so the stakes on this are high.

In our view there is no absolute guarantee of protection of all existing public benefit if woods are sold.

The current mechanisms which provide for general protection of woodland in England (and for Forestry Commission (FC) sites which are sold) are as follows:

Forestry legislation

- **Felling licences**
These prevent the felling of more than 5 cubic metres of timber per quarter from a woodland without permission whether or not the owner is in a Woodland Grant Standard (WGS) contract. Levels of prosecution for felling licence breaches are extremely low¹; it is not certain whether this is due to low levels of activity or because enforcement is impractical. Breaches of felling licences can incur penalties of up to £5,000. Felling licences do not deter determined developers who will pay the fine as part of the costs of their proposal.
The Hampton review stated that FC received 176 reports of illegal felling in 2008/9 and investigated 34 in more detail; 6 formal warnings were issued; two cases went forward to prosecution.
- **Restocking requirements**
These requirements are mitigating rather than preventative in that they require the woodland owner to replant felled areas of woodland done either legally or illegally.
- **UK Forestry Standard**
Technically all WGS contracts should comply with this. For example: you cannot fell an Ancient Semi Natural wood and restock it with conifers.

Forestry policy

- The Forestry Commission's 'Keepers of Time' policy on ancient woodland (2005) commits it to the principle of restoring ancient woodland and to preparing an action plan for this to happen on its own

¹(Forestry Commission (2010) *A Hampton review Implementation Report Department for Business Innovation and Skills* accessed at: <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/10-608-forestry-commission-hampton-implementation-review>)



estate. Since 2002 it has restored 1,890 ha of planted ancient woods on its estate out of 49,752 ha (figures at April 2009).

Countryside legislation

- Countryside Rights of Way (CROW) 2000 and dedication
Section 16 of the CROW Act 2000 has created a voluntarily applied guarantee of permanent public access on foot tailored for woodland, similar to the mandatory rights of access to other forms of access land (heath, moor, downland, commons and coasts). Most of the FC's estate in England is dedicated for permanent future public access (i.e. about 90% of the freehold portion) but the leasehold area of woodland is not yet dedicated as this is more complex. We think this applies to about 25% of its woodland.
- Protective designations
SSSI status constrains landowners from undertaking damaging operations. About 67,700 hectares of FC woodland are designated as SSSI (i.e. 26% of its total holding) - although this also includes open ground habitat. However, given that the SSSI series is always intended to be representative of the best rather than inclusive of all high quality sites, it may be that FC sites of equal biodiversity value may be designated in one case, and not in others.
- EIA and SEA: the process in itself is not a guarantee against adverse environmental effects but creates a better understanding of them to inform major decisions.

Planning legislation

- Tree Preservation Orders (TPO)
These are administered by local planning authorities and apply mainly to individual trees in urban areas, and rarely in the rural situation except as Woodland TPOs. Current review of the TPO Regulations will allow works to dead trees and dead branches on living trees without control. The wording on the 'dangerous' tree exception is not tight enough to prevent the loss of important trees without control. A few Conservation Areas, primarily an urban designation for special historic and architectural interest, may incorporate woods.
- Permitted Development Rights
Some activities which are damaging to woodland, especially when carried out over a period of many years, albeit perhaps in frequently, are permitted without the need to apply for planning permission.

Planning policy

- National planning guidance statement 9 (biodiversity and geological conservation)
Current national planning policy guidance in England includes positive direction to local authorities regarding ancient woodland:

Paragraph 10 states:

"Ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. Local planning authorities should identify any areas of ancient woodland in their areas that do not have statutory protection (e.g. as a SSSI). They should not grant planning permission for any development that would result in its loss or deterioration unless the need for, and benefits of, the development in that location outweigh the



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loss of the woodland habitat. Aged or 'veteran' trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided. Planning authorities should encourage the conservation of such trees as part of development proposals."

However in mid-January 2011, the Government announced that there would be a consultation on the national planning framework in the New Year; the language gives strong and not unexpected hints that the amount and scope of such guidance will be greatly reduced so we have no long term hope that PPS9 which we fought so hard for over many years will remain unaltered or indeed remain at all.

- **Local wildlife sites (sites of nature conservation interest)**
These are usually a material consideration in planning decisions rather than a form of protection per se. Their designation helps to raise awareness of their existence and value, as does the Ancient Woodland Inventory though this does not cover woods under 2ha.
- **Local Plans**
The future status of local plans is likely to change fundamentally as result of the Localism Bill. At present the strength of wording regarding ancient woods is variable - there are many good examples which certainly weigh heavily in the minds of planning committees when decisions are made but where interests at a regional or national level come into play local plans need to be set against other forms of planning direction and priorities set by other policy areas such as energy, transport and so on.

Voluntary mechanisms

- **UK Woodland Assurance Scheme (UKWAS)**
A voluntary standard which landowners agree to abide by subject to achieving or retaining certification of their management by an independently audited process. It is essentially a market mechanism, certified status allowing access to certain markets for timber products. This and preferential access to some grants is main the driver for most owners remaining certified. There is no legal redress in failing to meet those standards, other than the potential reputational shame of having certification withdrawn and loss of access to timber markets and some grants. There is equally no route other than persuasion and market forces by which UKWAS can be adopted, given its voluntary nature.