



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Minister for Infrastructure
Nichola Mallon MLA
Department for Infrastructure
Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

18 December 2020

Dear Minister Mallon

Tree and Hedge Cutting – Roads (NI) Order 1993

Further to the December 2020 meeting of the Councils Environment Committee the Council have requested that I write to you on a matter of serious concern, to seek your view on how current service delivery may be improved.

It has been presented to the Council that there has been at least one fatality, serious injury and several 'near misses' caused by trees falling on to roads in recent years. We have also been made aware that our Members receive complaints very regularly, regarding 'dangerous' trees at risk of falling – particularly on to rural roads, and also regarding rural roadside trees and hedges that are obstructing visibility.

We are aware that under the Roads (NI) Order 1993, your Department has the necessary powers:

- to require a landowner to remove potentially dangerous trees and hedges (S50) and to do the necessary works if the landowner fails to comply (S58);
- to enter land (S119) and remove potentially dangerous trees and hedges.

Clearly the preferred option is to ensure that the landowner carries out any necessary works themselves, and we acknowledge the Tree and Hedge Cutting notice available on the Departments website¹, however, the Members' concern lies where the landowner has not done the necessary works to make a tree safe,

¹ <https://www.infrastructure-ni.gov.uk/sites/default/files/publications/infrastructure/tree-and-hedge-cutting-notice-2020.pdf>

following which numerous complaints/warnings have been made to the Council, following which the Department has been notified of the concern.

In various emotive but well-articulated discussions and presentations, Members have reported what has been referred to as reticence from Departmental officials locally to dynamically act to address such threats to public safety.

We understand all too well, as a Council, the issues posed by doing works in default and attempting cost recovery, but we are also aware of the duty of care the Department may have in such circumstances, and the potential for judicial review, should the Department be found to have made an 'irrational decision' in not using its power to carry out works to make safe a dangerous tree or hedge, once notified. Referencing this the Council are of course talking about constituents who were seriously injured or who have died, so you will, I know, understand fully how emotive the issue and the discussions on it have become, with neighbours and families being referred to.

Mid Ulster District Council would respectfully seek your assurance that the Department is making full use of its power to require a landowner to act, but also to ensure that dangerous trees growing on private land at the roadside are made safe in a timely fashion if landowners do not act. Any improvements on the formal mechanism to highlight potential hazards and track their removal which Members might be able to use, would be welcomed.

As we in Mid Ulster, with your support, are now set on markedly increasing the number of trees to mitigate climate change, at the same time as experiencing more frequent severe wind and weather incidents, Mid Ulster District Council would encourage you to consider existing powers and arrangements and make improvements to both under your Ministerial direction. Please note that Mid Ulster has benefited from three applications in recent years through the DAERA Forest Expansion Scheme to plant trees on closed landfill sites.

The Council would, having had this matter raised corporately and fervently by Members, be content to meet with you and your officials to explore ways to improve communications mechanisms between the Council and your Department and to seek solutions to ensure that these risks from overhanging trees and hedges are mitigated against in a very proactive manner.

Yours sincerely

A handwritten signature in black ink that reads "Andrew Cassells". The signature is written in a cursive style with a horizontal line underneath the name.

Andrew Cassells
Director of Environment & Property
(Magherafelt Office)



Department for

Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

From the office of the Minister for Infrastructure
Nichola Mallon MLA

Mr Andrew Cassells
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Mid Ulster District Council

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Your reference: XXXX
Our reference: CORR-0094-2021
25 January 2021

Dear Mr Cassells,

TREE AND HEDGE CUTTING – ROADS (NI) ORDER 1993

Thank you for your letter of 18 December 2020 regarding overhanging or hazardous trees and overgrown hedges. You have highlighted the concerns Council members have regarding the level of response by my officials to reports of potentially dangerous trees and hedges encroaching onto the public road.

I am committed to ensuring that our road network is maintained to the best possible standard with due regard to the available resource and to seek to ensure that public safety continues to be a priority within my Department. Whilst my Department does not have a specific tree inspection process in place, my officials undertake regular routine maintenance inspections on all roads during which they will note trees or hedges, within or immediately adjacent to our public road boundaries, which are causing an obstruction or present a potential hazard to the public.

As you have noted, most roadside trees are on private land adjacent to public roads and it is incumbent on property owners or occupiers of those lands to ensure that such trees and hedges do not endanger or obstruct road users. When my officials become aware of a potentially dangerous tree or obstruction, as a first step, they identify the owners and/or occupiers and request that they address the hazard. If the landowner does not respond positively, my Department has powers, under Article 50 of the Roads (Northern Ireland) Order 1993, to serve a notice on the owner/occupier requiring them to remove or cut back the tree or hedge so as to remove the danger or obstruction. Where an owner/occupier does not comply with the requirements of the notice, my Department may carry out the necessary works and seek to recover the costs.

To help reinforce the need for landowners to cut back trees and hedges, my Department periodically places notices in the local press and in farming journals reminding owners/occupiers of their responsibilities. In the last year, additional

information to landowners on the recommended maintained height of trees was included in the annual Tree & Hedge Cutting Notice issued in January 2020.

In addition, a social media plan was developed to heighten awareness around the notice using infographics agreed with the Road Haulage Association and DAERA, and messages were issued on social media at the end of January last year; my officials plan to issue similar messaging this year.

The NIDirect website was also revised last year to include information on responsibility for trees/hedge cutting and was recently further updated to include a graphic illustration of the recommended height clearance information. In July 2020, my officials assisted colleagues in DAERA to produce a press release relating to the same issues.

Overgrown trees and hedges that endanger or obstruct road users are normally identified by my officials during our routine maintenance inspections, or through reports from the general public to local DfI offices. My officials would welcome reports/notifications regarding potentially dangerous trees from Members or officials from Mid Ulster District Council. I wish to assure you that my officials will investigate all such reports and, if appropriate, engage with the landowners responsible to request that any required works are carried out by them as quickly as possible.

In relation to specific locations where your Members or Officials have concerns and noting your suggestion for my officials to meet with the Council to discuss the matter, I would encourage the Council to contact the local Maintenance Engineers, Mr Neil Bratton and Mr Gerry Hackett to arrange a meeting. Neil can be contacted at neil.bratton@infrastructure-ni.gov.uk and Gerry at gerry.hackett@infrastructure-ni.gov.uk

I hope you find this information helpful.

A handwritten signature in black ink, appearing to read 'N. Mallon', with a stylized flourish at the end.

NICHOLA MALLON MLA
Minister for Infrastructure