

Protecting Hedgerows DEFRA Consultation Response

September 2023

About Us:

The Heritage Alliance is England's largest coalition of independent heritage interests. We unite more than 200 organisations which together have over 7 million members, volunteers, trustees and staff. The vast majority of England's historic environment, including more than half of rural England, is managed and cared for by Heritage Alliance members. The Alliance's specialist Rural Heritage Advocacy Group has fed into this response.

General Comments:

We are grateful to DEFRA for the opportunity to respond to this consultation and are pleased to see that GAEC 7a will be included in the newly amended Hedgerow Regulations. Hedgerows and dry-stone walls are an important part of achieving our biodiversity net gain targets as well as an irreplicable element of our historic environment.

We are supportive of ensuring Hedgerows are adequately protected and agree the inclusion of GAEC 7a into regulations is the quickest and most efficient approach. However, we do have some concerns about the narrow scope of the inclusion of GAEC 7a, and the proposed exclusion criteria which could cause inadvertent damage to historic landscape features. We propose strengthening existing policy around these features will be beneficial for both the climate and heritage. We also believe a better understanding of protecting hedgerows in the historic landscape is needed.

Hedgerow Management Requirements and Exemptions

We note that the consultation proposes an exemption based on the size of the holding, while current definitions of important hedgerows do not rely on size. By introducing a size-related exemption there is a risk that important hedgerows on farms under 5 hectares may be mis-managed and so the same protection must continue to apply. According to current regulations (The Hedgerows Regulations 1997; Schedule 1; part 2; Criteria; 1-5) important hedgerows can occur on a site of any size. This states that an important hedgerow meets the following criteria:

1. *The hedgerow marks the boundary, or part of the boundary, of at least one historic parish or township; and for this purpose "historic" means existing before 1850.*
2. *The hedgerow incorporates an archaeological feature which is—*
 - (a) *included in the schedule of monuments compiled by the Secretary of State under section 1 (schedule of monuments) of the Ancient Monuments and Archaeological Areas Act 1979(35); or*
 - (b) *recorded at the relevant date in a Sites and Monuments Record.*
3. *The hedgerow—*
 - (a) *is situated wholly or partly within an archaeological site included or recorded as mentioned in paragraph 2 or on land adjacent to and associated with such a site; and*
 - (b) *is associated with any monument or feature on that site.*
4. *The hedgerow—*
 - (a) *marks the boundary of a pre-1600 AD estate or manor recorded at the relevant date in a Sites and Monuments Record or in a document held at that date at a Record Office; or*
 - (b) *is visibly related to any building or other feature of such an estate or manor.*
5. *The hedgerow—*
 - (a) *is recorded in a document held at the relevant date at a Record Office as an integral part of a field system pre-dating the Enclosure Acts(36); or*
 - (b) *is part of, or visibly related to, any building or other feature associated with such a system, and that system—*
 - (i) *is substantially complete; or*
 - (ii) *is of a pattern which is recorded in a document prepared before the relevant date by a local planning authority, within the meaning of the 1990 Act(37), for the purposes of development control within the authority's area, as a key landscape characteristic.*

As size is not a determining factor in what constitutes an important hedgerow in this definition, it does not make sense to include this as part of the exemption criteria. Furthermore, the 'Guide to the Law and Good Practice' of 1997 Hedgerow Regulations clearly states that hedgerows cannot be uprooted in areas associated with the historic

environment. Any exemption allowing mismanagement of such hedgerows based on size will be in violation of this policy. Similarly, defining an important hedgerow through agricultural land alone risks the exclusion of important hedgerows found on other types of land such as the curtilage and setting of listed buildings, and historic parklands and estates.

GAEC 7a and Future Hedgerow Policy

If future hedgerow policy is to include GAEC 7a as part of Hedgerow Regulations 1997 then it should include all parts of GAEC 7a such as mention of other field boundaries including dry stone walls.

Unfortunately, this consultation fails to mention what will happen to such features once GAECs are scrapped. This is despite dry stone walls being included in the definition of a hedgerow in some county councils including Devon and Cornwall where locally distinctive field boundaries incorporate elements of ditches, banks, hedges and dry-stone walls. Stone walls are important and iconic parts of many rural landscapes, especially in National Parks including Dartmoor, the Lake District and the Yorkshire Dales. Dry stone walls, like hedgerows, are important biodiverse habitats and are important in achieving our Biodiversity Net Gain targets as well as representing the historic environment.

GAEC 7a seems to have largely protected them from destruction, but without this their protection would be more limited. They would only be protected if listed, scheduled, or in Conservation Areas, or more generally by EIA regulations - not all assets worthy of protection have been scheduled or listed, and it is these assets that must be covered by regulations such as these. Therefore, this part of GAEC 7a must be replicated in the new system.

For reference the full scope of other types of field boundaries within GAEC 7a can be seen below:

Rules for stone walls, earth banks and stone banks must be followed if any of these apply:

- *it has a continuous length of at least 10 metres*
- *it has a continuous length of less than 10 metres which meets another boundary at each end*
- *it has a continuous length of less than 10 metres which forms an enclosure*
- *An earth bank is a mound without a hedge, distinct from the surrounding land form. A stone bank is an earth bank faced with natural stone.*

You must not:

- *remove existing stone walls, earth banks and stone banks*
- *remove earth or stone from an existing stone wall, stone bank or earth bank.*

Rules for stone walls, earth banks and stone banks do not apply if you either:

- *widen an existing gateway in a stone wall, earth bank or stone bank to allow machinery or livestock access. The gateway should be no wider than 10 metres and the newly created ends finished to a vertical face*
- *use the stone or earth removed from the stone wall, earth bank or stone bank to repair another stone wall, earth bank or stone bank on your holding which is in a better condition than the one you remove the stone or earth from*
- *have written permission from RPA to do so, in order to enhance the environment, improve public or agricultural access, or for reasons relating to livestock or crop production. You must receive written permission from RPA before you carry out this work.*

Future policy should also consider how historic features outlined in GAEC 7e will be protected, which has not been mentioned in this consultation. According to Natural England between 1998 and 2004, grants delivered through Agri-environment schemes secured the restoration of 517 farm buildings and 191km of dry-stone walls. A study carried out by ADAS on behalf of DEFRA examined the range of public benefits that flowed from this investment. The study concluded that the schemes had generated between £7 million and £9 million for local economies. Therefore, it makes economic as well as environmental sense to ensure that all of the features under GAEC 7 are carefully considered in future policy for the benefit of heritage and communities.

Lastly, as this consultation has shown, a more consistent approach to the historic environment across various Agri-environment policies is needed to ensure that vital landscape features do not fall through the gaps of new regulations.

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