

SCHEDULE 1

Regulations 2(3) and 4

ADDITIONAL CRITERIA FOR DETERMINING “IMPORTANT” HEDGEROWS

PART I

INTERPRETATION

In this Schedule—

“building” includes structure;

“Record Office” means—

- (a) a place appointed under section 4 of the Public Records Act 1958(1) (place of deposit of public records),
- (b) a place at which documents are held pursuant to a transfer under section 144A(4) of the Law of Property Act 1922(2) or under section 36(2) of the Tithe Act 1936(3), including each of those provisions as applied by section 7(1) of the Local Government (Records) Act 1962(4), or
- (c) a place at which documents are made available for inspection by a local authority pursuant to section 1 of the Local Government (Records) Act 1962;

“relevant date” means the date on which these Regulations are made;

“Sites and Monuments Record” means a record of archaeological features and sites adopted—

- (a) by resolution of a local authority within the meaning of the Local Government Act 1972(5), or
- (b) in Greater London, by the Historic Buildings and Monuments Commission(6);

“standard tree”—

- (a) in the case of a multi-stemmed tree, means a tree which, when measured at a point 1.3 metres from natural ground level, has at least two stems whose diameters are at least 15 centimetres;
- (b) in the case of a single-stemmed tree, means a tree which, when measured at a point 1.3 metres from natural ground level, has a stem whose diameter is at least 20 centimetres;

“woodland species” means the species listed in Schedule 2; and

“woody species” means the species and sub-species listed in Schedule 3, and any hybrid, that is to say, any individual plant resulting from a cross between parents of any species or sub-species so listed, but does not include any cultivar; and

references to the documents in paragraph 6(3)(b) and (4) are to those documents as at the relevant date, without taking account of any subsequent revisions, supplements or modifications.

(1) 1958 c. 51.

(2) 1922 c. 16; section 144A was inserted by the Law of Property (Amendment) Act 1924 (c. 5), Schedule 2.

(3) 1928 c. 2.

(4) 1962 c. 56.

(5) 1972 c. 70.

(6) The Commission was established by section 32 of the National Heritage Act 1993 (c. 47).

PART II

CRITERIA

Archaeology and history

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(7); 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 Inclosure Acts(8); 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(9), for the purposes of development control within the authority’s area, as a key landscape characteristic.

Wildlife and landscape

- 6.—(1) The hedgerow—
 - (a) contains species listed or categorised as mentioned in sub-paragraph (3); or
 - (b) is referred to in a record held immediately before the relevant date by a biological record centre maintained by, or on behalf of, a local authority within the meaning of the Local Government Act 1972(10), and in a form recognised by the Nature Conservancy Council for England, the Countryside Council for Wales(11) or the Joint Nature Conservation Committee(12), as having contained any such species—

(7) 1979 c. 46.

(8) See the Short Titles Act 1896 (c. 14).

(9) See section 1 of the Town and Country Planning Act 1990, as amended by the Local Government (Wales) Act 1994 (c. 19).

(10) See the definition of “local authority” in section 270(1), as amended by the Local Government Act 1985 (c. 51), Schedule 17 and the Local Government (Wales) Act 1994, Schedule 1, paragraphs 1 and 57.

(11) See section 128(1) of the Environmental Protection Act 1990 (c. 43); subsection (1) of section 128 was amended by the National Heritage (Scotland) Act 1991 (c. 28).

(12) See section 128(4) of the Environmental Protection Act 1990.

- (i) in the case of animals and birds, subject to sub-paragraph (2), within the period of five years immediately before the relevant date.
 - (ii) in the case of plants, subject to sub-paragraph (2), within the period of ten years immediately before the relevant date;
- (2) Where more than one record referable to the period of five or, as the case may be, ten years before the relevant date is held by a particular biological record centre, and the more (or most) recent record does not satisfy the criterion specified in sub-paragraph (1)(b), the criterion is not satisfied (notwithstanding that an earlier record satisfies it).

- (3) The species referred to in sub-paragraph (1) are those—
- (a) listed in Part I (protection at all times) of Schedule 1 (birds which are protected by special penalties), Schedule 5 (animals which are protected) or Schedule 8 (plants which are protected) to the Wildlife and Countryside Act 1981(13);
 - (b) categorised as a declining breeder (category 3) in “Red Data Birds in Britain” Batten LA, Bibby CJ, Clement P, Elliott GD and Porter RF (Eds.), published in 1990 for the Nature Conservancy Council and the Royal Society for the Protection of Birds (ISBN 0 85661 056 9); or
 - (c) categorised as “endangered”, “extinct”, “rare” or “vulnerable” in Britain in a document mentioned in sub-paragraph (4).

- (4) The documents referred to in sub-paragraph (3)(c) are—
- (a) of the books known as the British Red Data Books:
 - (1) “Vascular Plants” Perring FH and Farrell L, 2nd Edition, published in 1983 for the Royal Society for Nature Conservation (ISBN 0 902484 04 4);
 - (2) “Insects” Shirt DB (Ed.), published in 1987 for the Nature Conservancy Council (ISBN 0 86139 380 5); and
 - (3) “Invertebrates other than insects” Bratton JH (Ed.), published in 1991 for the Joint Nature Conservation Committee (ISBN 1 873701 00 4); and
 - (b) of the books known as the Red Data Books of Britain and Ireland:
 - “Stoneworts” Stewart NF and Church JM, published in 1992 for the Joint Nature Conservation Committee (ISBN 1 873701 24 1).

- 7.—(1) Subject to sub-paragraph (2), the hedgerow includes—
- (a) at least 7 woody species;
 - (b) at least 6 woody species, and has associated with it at least 3 of the features specified in sub-paragraph (4);
 - (c) at least 6 woody species, including one of the following—
 - black-poplar tree (*Populus nigra* ssp *betulifolia*);
 - large-leaved lime (*Tilia platyphyllos*);
 - small-leaved lime (*Tilia cordata*);
 - wild service-tree (*Sorbus torminalis*); or
 - (d) at least 5 woody species, and has associated with it at least 4 of the features specified in sub-paragraph (4),

and the number of woody species in a hedgerow shall be ascertained in accordance with sub-paragraph (3).

(13) 1981 c. 69. Schedule 5 is amended by S.I.1988/288, 1989/906, 1991/367 and 1992/2350.

(2) Where the hedgerow in question is situated wholly or partly in the county (as constituted on 1st April 1997) of the City of Kingston upon Hull, Cumbria, Darlington, Durham, East Riding of Yorkshire, Hartlepool, Lancashire, Middlesbrough, North East Lincolnshire, North Lincolnshire, Northumberland, North Yorkshire, Redcar and Cleveland, Stockton-on-Tees, Tyne and Wear, West Yorkshire or York⁽¹⁴⁾, the number of woody species mentioned in paragraphs (a) to (d) of sub-paragraph (1) is to be treated as reduced by one.

(3) For the purposes of sub-paragraph (1) (and those of paragraph 8(b))—

- (a) where the length of the hedgerow does not exceed 30 metres, count the number of woody species present in the hedgerow;
- (b) where the length of the hedgerow exceeds 30 metres, but does not exceed 100 metres, count the number of woody species present in the central stretch of 30 metres;
- (c) where the length of the hedgerow exceeds 100 metres, but does not exceed 200 metres, count the number of woody species present in the central stretch of 30 metres within each half of the hedgerow and divide the aggregate by two;
- (d) where the length of the hedgerow exceeds 200 metres, count the number of woody species present in the central stretch of 30 metres within each third of the hedgerow and divide the aggregate by three.

(4) The features referred to in sub-paragraph (1)(b) and (d) (which include those referred to in paragraph 8(b)) are—

- (a) a bank or wall which supports the hedgerow along at least one half of its length;
- (b) gaps which in aggregate do not exceed 10% of the length of the hedgerow;
- (c) where the length of the hedgerow does not exceed 50 metres, at least one standard tree;
- (d) where the length of the hedgerow exceeds 50 metres but does not exceed 100 metres, at least 2 standard trees;
- (e) where the length of the hedgerow exceeds 100 metres, such number of standard trees (within any part of its length) as would when averaged over its total length amount to at least one for each 50 metres;
- (f) at least 3 woodland species within one metre, in any direction, of the outermost edges of the hedgerow;
- (g) a ditch along at least one half of the length of the hedgerow;
- (h) connections scoring 4 points or more in accordance with sub-paragraph (5);
- (i) a parallel hedge within 15 metres of the hedgerow.

(5) For the purposes of sub-paragraph (4)(h) a connection with another hedgerow scores one point and a connection with a pond or a woodland in which the majority of trees are broad-leaved trees scores 2 points; and a hedgerow is connected with something not only if it meets it but also if it has a point within 10 metres of it and would meet it if the line of the hedgerow continued.

8. The hedgerow—

- (a) is adjacent to a bridleway or footpath, within the meaning of the Highways Act 1980⁽¹⁵⁾, a road used as a public path, within the meaning of section 54 (duty to reclassify roads used as public paths) of the Wildlife and Countryside Act 1981⁽¹⁶⁾, or a byway open to all traffic, within the meaning of Part III of the Wildlife and Countryside Act 1981⁽¹⁷⁾, and

⁽¹⁴⁾ In relation to the City of Kingston upon Hull, North and North East Lincolnshire and the East Riding of Yorkshire, *see* S.I. 1995/600; to Darlington and Durham, *see* S.I. 1995/1772; to Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees, *see* S.I. 1995/1747; to Lancashire, *see* S.I. 1996/1868; and to North Yorkshire and York, *see* S.I. 1995/610.

⁽¹⁵⁾ 1980 c. 66. *See* the definition of “bridleway” and “footpath” in section 3.

⁽¹⁶⁾ 1981 c. 69.

⁽¹⁷⁾ *See* the definition in section 66(1).

- (b) includes at least 4 woody species, ascertained in accordance with paragraph 7(3) and at least 2 of the features specified in paragraph 7(4)(a) to (g).