



Northern Ireland
Assembly

Committee for Agriculture, Environment and
Rural Affairs

OFFICIAL REPORT (Hansard)

Environment Bill:
Northern Ireland Environment Link;
Royal Society for the Protection of Birds;
National Trust

27 February 2020

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Members present for all or part of the proceedings:

Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Maurice Bradley
Mr Harry Harvey
Mr William Irwin

Witnesses:

Ms Victoria Magreehan	National Trust
Mr Craig McGuicken	Northern Ireland Environment Link
Ms Jane Clarke	Royal Society for the Protection of Birds Northern Ireland
Ms Joanne Sherwood	Royal Society for the Protection of Birds Northern Ireland

The Chairperson (Mr McAleer): I welcome Craig McGuicken, chief executive officer of NI Environment Link (NIEL); Joanne Sherwood, director of the Royal Society for the Protection of Birds NI (RSPB NI); Victoria Magreehan, the external affairs manager at the National Trust; and Jane Clarke, nature protection officer with the RSPB NI. I advise you that you should take 10 minutes to brief the Committee, after which the Committee will ask some questions.

Mr Craig McGuicken (Northern Ireland Environment Link): Thank you very much, Chair, and thank you, Committee members, for having us. You have already received our written evidence, so we have just a short presentation for you.

Northern Ireland Environment Link is the networking and forum organisation for organisations with an interest in the environment in Northern Ireland. We have about 65 full members, representing over 120,000 individuals. That is a fairly good segment of Northern Irish society. The membership manages more than 300,000 acres of land and delivers a wide range of programmes.

The people here today are part of Environment Link's Nature Matters campaign group, which was set up to advocate for the best possible environment after we leave the EU.

In the Environment Bill as currently drafted, there are a number of underlying issues that need to be remembered. First, we are in the middle of a climate and biodiversity crisis. Reports such as 'State of

Nature' from 2019 clearly highlight the scale of habitat loss and pollution and the growing impacts of climate change. In Northern Ireland, we have lost more wildlife than any other part of the UK. We have very low levels of woodland cover. Less than a third of our rivers are reported as being in good condition. Some 11% of the species found here are at threat of extinction. Just today, the National Trust published a YouGov poll found that found that 86% of adults in Northern Ireland think that it is important to have stronger laws to protect the environment. Members will be interested in this: 84% believe that politicians could do more to help nature. As the UK leaves the EU, Northern Ireland's political leaders have an opportunity to set an ambitious programme of legislation and policy that reverses the environmental trends and shows that they are listening to the public, particularly young people, who are very engaged on the topic. It is clear that there should be no regression on current levels of environmental protection and oversight. In fact, levels should increase. Secondly, the UK remains a signatory to a range of international agreements that function to provide environmental protection, such as the Good Friday Agreement, the Aarhus convention and the UN sustainable development goals. That means that we have to continue to legislate for and work to meet those international standards. Thirdly, the New Decade, New Approach agreement includes a number of environment-related items, including the establishment of an independent environmental protection agency (EPA) and climate change legislation.

The Environment Bill is one of three Bills, along with the Agriculture Bill and the Fisheries Bill [HL], that include provisions for Northern Ireland. Taken together, they will provide an important legislative framework that will help shape the future for people in Northern Ireland. A high-quality environment will be needed to support food production, jobs, health and well-being. Given that perspective, the question is this: will the Environment Bill fulfil the aim, as has frequently been stated by DEFRA Ministers, that this generation will leave the environment in a better state than when we inherited it? The answer is that, although we welcome many aspects of the Bill, by itself and in its current form, it is unlikely to achieve that objective. In general, we support the provisions that can extend to Northern Ireland, but the Bill needs to be strengthened. At this point, I will say that, if there are amendments made to it, we are happy to come back and provide more evidence.

We will focus on two areas, which are environmental governance and the environmental improvement plan (EIP). Historically, internal environmental governance in Northern Ireland has been weak. There have been a number of high-profile failings over the years. Northern Ireland remains the only part of the UK without an independent environment protection agency with statutory responsibilities for nature conservation and environmental regulation.

Following the transition period, Northern Ireland is also at risk of being in a governance gap, whereby we will not have the oversight of the EU institutions, which have provided a large proportion of our environmental law and policy. Therefore, we welcome the extension of the Office for Environmental Protection (OEP) to Northern Ireland, but we have a few caveats. There should be a timeline for the OEP's establishment. There is an obvious resourcing requirement that we need to highlight. The Assembly should have oversight of the Northern Irish appointee to the OEP. There needs to be clarification on any interim governance arrangements. We note that the OEP's powers will be more limited in Northern Ireland than they will be in England, and we feel that that is wrong. There also needs to be clarification on cross-border links. Although the OEP partially fulfils the governance gap resulting from exiting the EU and its governance structures, it will not address the record of domestic governance failings in Northern Ireland. Therefore, we require the establishment of an independent EPA.

On the environmental improvement plan, it is fairly clear that Northern Ireland needs a new environment strategy. We thank the Department for the work that it has done on the strategy over the past six months to a year. The strategy needs to be developed in partnership with the wider sector. It needs to be underpinned by a clear commitment on non-regression. It should be broad and encompass the full range of the environment: land, air, freshwater and marine. It needs to be endorsed across the Executive, have buy-in from all Departments and be time-bound. It needs to have a resource commitment and to have targets. Most importantly, it needs to have a legislative footing through a specific Northern Ireland Bill.

In conclusion, we welcome many aspects of the Bill, but there are areas that need improvement or clarification. As with any legislation, its outworkings need to be resourced. Halting the climate and biodiversity crisis comes at a cost. However, we feel that the Bill provides a crucial opportunity for Northern Ireland. There are enormous economic and social benefits from investing in our environment, and the cost of failure will be much higher.

Thank you for listening. As a coalition here today, our focus is on environmental governance and the improvement plan, but we will try to answer any other questions that you have.

The Chairperson (Mr McAleer): Thanks very much for your presentation, Craig. There are a couple of points that I want to pick up with you. We have been looking through some of the papers relating to the Environment Bill, and one of the concerns that was flagged up — it has also been raised by the Welsh — is around non-regression. Moreover, in the notes from a 2019 DEFRA report from some stakeholders, it is stated that the Bill does not provide the equivalent protections that we had in the EU. In fact, it pointed towards significant regression. How do you feel about that? Do you share that concern?

Ms Jane Clarke (Royal Society for the Protection of Birds Northern Ireland): Thank you for the question. It is a key point that was brought up yesterday at the Bill's Second Reading. There was a clear understanding that the Bill does not commit to non-regression, and that is a concern, because although there is a need to give DEFRA and DAERA the powers to take forward future legislation, there is also a need to commit very strongly to not regressing. Therefore, although the door is open, it needs to be shut to not going any lower than we have done.

The Chairperson (Mr McAleer): The OEP was quite topical when we talked to departmental representatives earlier. How do you see the OEP's role interfacing with the proposed independent EPA? Many of the concerns that you flagged up in your presentation, we have raised with the Department previously: around oversight; the role of the Assembly; and the extraordinary role of the Secretary of State in making appointments to the body. How do you see the OEP interfacing with the proposed EPA?

Ms Clarke: To consider the OEP and the EPA, we also need to consider this: what is the need for the two bodies? An independent EPA has long been recognised as being needed for Northern Ireland. The need for the OEP stems from the fact that we will lose the oversight of the EU institutions.

Northern Ireland should have more oversight of the OEP appointment that is provisioned in the Environment Bill as laid and that it should be a Northern Ireland expert. The appointee should have sufficient understanding. The two have very distinct but complementary functions and remit.

Mr McGuigan: On that last point, the Chair is right. We laboured the point about the OEP earlier when the Department was in. Are you satisfied that one individual from the North is satisfactory on a two island-wide OEP, or would you suggest a separate OEP, given the nature of the protocol, the legislation and the particular requirements here? I am just trying to tease out whether that would be better or whether one individual would have the same powers and remit. Secondly, we raised the issue of the environment strategy, and the Department's view is that it will evolve or become the environmental plan. The consultation on the strategy is now closed. Are you saying that more work is needed or that greater thought should be given before the Department makes any decisions? I just want a little more clarity on some of the points that you made about the environment strategy.

Mr McGuicken: The situation with the strategy is that the consultation on an initial discussion document has closed. What is meant to happen now is that the Department takes that feedback and uses it to develop some kind of strategy. We have had discussions with the Department, so we hope that it will speak with the sector and that there will be a bit of co-production on what is contained in the strategy. I do not know what the time frame is for that, but if we are saying that the strategy is the EIP, there is an obvious time pressure, so we need to get under way with that work.

As I said, the Department has done fairly well to pull together the strategy stuff, and we want to work with it.

Mr McGuigan: Its officials said earlier that there had been 2,500 responses.

Mr McGuicken: That is a high level.

Ms Joanne Sherwood (Royal Society for the Protection of Birds Northern Ireland): The environment strategy may continue to evolve, but it is important that it include ambitious, time-bound and measurable targets. We talked about non-regression. It is clear that, even with the EU legislation, there is a crisis in nature and climate. Some 11% of species face extinction in Northern Ireland. Non-regression is a minimum. We have an opportunity here to set real ambition to take us in to the future.

Those targets probably need to be in the Bill. They need to be in statute. They need to be monitored. There needs to be a mechanism for following up.

You asked whether one member on an OEP was satisfactory. The decision on how many members are on it is a political one. At the very least, it needs to be visible and present in this country. It needs to have that local expertise to be able to do the job. One of the real issues is that the mechanism for recourse here is different from the mechanism for recourse in England. In Northern Ireland, it can have recourse only to judicial review or decision notices. Both are fairly weak and, potentially, fairly ineffective mechanisms in comparison with some of the recourse that the European institutions had historically. The OEP holds the overall system and the Government to account, and the question is this: how can you do that effectively? What mechanisms and levers can be pulled to do that so that things change?

Mr Blair: I apologise for missing the first part of your presentation. Ironically, given that the Environment Committee is sitting today, Keep Northern Ireland Beautiful is having an event upstairs. I had promised to speak to an individual there for a couple of minutes. Apologies for my absence. It was down to that reason and no other. I hope that you understand.

Colleagues have demonstrated to you that we have been pushing on questions about how an OEP and an independent environmental protection agency would fit together, what the roles would be and the potential problems therein for clashes. More broadly — this probably fits with what Joanne mentioned about threats to a number of species in Northern Ireland — how best can we try to steer the framework for environmental protection to protect species and habitat restoration, particularly as an EU border will be involved? Do you have any thoughts on how best we can steer those environmental protection frameworks as they evolve in order to ensure that those matters are addressed?

Mr McGuicken: Do you want to say something about the remits of the different organisations, Jane?

Ms Clarke: Yes. There is a distinct difference between their two remits. The OEP will hold the public authorities to account. The Minister will, of course, determine the function of the EPA, but it will be a mix of individuals and organisations, so they very much fit together, or beside each other. Joanne made a point about targets, and they will be key. There is no requirement in the Bill for environmental improvement plans to be underpinned by targets, but the question is this: how do you monitor a plan if you have no target to meet? The strongest way of guiding that framework for future environmental protection would be to set a clear objective of a high level of environmental protection across land, sea, freshwater and air, and then targets would function to meet that objective. The fact is that this is one of three Bills. The Agriculture Bill and the Fisheries Bill will feed in to the achievement of a high level of protection. We say strongly that targets have to be underpinned in legislation.

Mr Blair: I just want to go back on that. I am sorry if I did not explain it properly at the start. Should it be whatever agency comes out of the Bill that concentrates on those targets: implementing them and working with the community, voluntary and charity sector to make sure that those targets are correct?

Ms Clarke: Yes. Apologies; there was a bit of confusion on my part. The Bill, as it stands, requires DAERA to monitor the plans, but we say that an independent EPA should have that role. It would have the sufficient expertise to determine whether those targets are being met.

Ms Victoria Magreehan (National Trust): You, very helpfully, raised the points that Joanne raised earlier on nature's decline and the threats to species. We believe that this is a framework Bill. It is happening because of the situation that we find ourselves in, with Brexit and not having had decision-making powers in Northern Ireland over the last while. It is not an ideal situation when designing a legislative process. However the Bill goes through, we want local decision-making and local laws to build upon it. This sets a direction, and it is about building upon that. What we want is a nature and environment Bill that is owned and led by the Assembly. Within that, you could look at things like nature restoration networks and nature-based solutions for the climate crisis. We would like that to be owned locally and the ambition to be set by MLAs.

Mr Harvey: This is directed to Craig, given his earlier comments. Bird populations are considered a good indicator of the broad state of wildlife and the countryside. Since 1994, the wild bird population has increased by 49%, although not all bird populations have increased. The wetland bird population has decreased by 12%. Is there a particular reason for that?

Mr McGuicken: One of my RSPB colleagues might be better placed than me to answer that one.

Mr Harvey: OK. That is fine.

Ms Sherwood: Some of the more specialist birds, which are probably unique to particular areas in Northern Ireland, have decreased most. The 'State of Nature' report showed a number of reasons for that. Amongst them, most notably, was how land had been managed historically, which has taken away some of the habitat that those birds require to live. Think about places like the Garron plateau and the uplands and how they were grazed, the sorts of animals used and some of the changes that have happened. We have worked in partnership with farmers, and, in some instances, more traditional breeds have come back. The grazing and cutting regimes have changed, and that has allowed those birds to come back. They are not secure yet, but we know, in many, but not all, instances, what needs to be done to change their fortunes. Victoria mentioned the link between the various Bills, and, rather than being siloed, they need to operate as a whole to achieve that direction.

Mr Harvey: Overall, then, you could say that it is a reasonably good picture.

Ms Sherwood: Nature is still under threat. Many, many species are in decline. Some 15% of species are at risk of extinction. Northern Ireland has lost more wildlife than any other part of the UK. The previous 'State of Nature' report showed that, on the biodiversity intactness index, Northern Ireland was the lowest of the four UK countries and very far down in comparison with European countries. That is a measure of how intact the habitats are. The number of butterflies has decreased by 43% since 2006. There is, alongside the climate crisis, a real nature crisis here.

Mr Harvey: In particular, rare species.

Ms Sherwood: Yes, birds that were common historically, such as the curlew, chough and lapwing, are rare because they have declined. Those are the kinds of birds that you would expect to see in the sort of habitat and countryside that you get in Northern Ireland.

Mr Harvey: Thank you, Joanne.

Mr M Bradley: Thank you very much for your presentation. I remember that, when I was a young boy, there were curlew, corncrake, freshwater shrimp and newts aplenty, and we had lint dams with plenty of aquatic life etc. Now, we have none of that. Most of our rivers have been drained so that they are fast-flowing and take water away from the land, so we have lost our marshes and so on. Do you see the Bill promoting a change of habitat and the restoration of habitat? The Minister has a keen interest in an extensive tree-planting scheme, which I would like to be extended to, perhaps, new planning applications. They should contain a condition that a landscape programme must accompany a build. How do you see that?

Ms Magreehan: When thinking about the Bill and its application in Northern Ireland, we need to remember that it underpins the environmental improvement plan, which is the current strategy on which consultation has just closed. That strategy sets out many very good ideas about how to restore nature, how to address declines in the health of water and air, and how we manage natural resources in Northern Ireland. The direct answer to whether the Bill will help with that depends on whether the Bill gives teeth and targets to the implementation of a plan. That is what we want. We want the Bill to be strong in helping us to set targets. The Bill is a good start. It sets a direction. It sets the need for the Department to create this plan. It sets the need for the Department to report on this plan and bring reports to the Assembly. It sets a good direction for transparency and accountability. However, targets are missing. Without those, will we really hold people to account or show big ambition in addressing the scale of the crisis that we face?

Mr M Bradley: Yes, targets are very important, and we should try to establish them. It is vital that there are targets to work towards.

Ms Sherwood: You asked specifically about trees. We have the lowest woodland cover in the UK, which is not a great statistic. It is about the right tree in the right place. I do not think that any of us want to see trees on some of the peatland, for example, because peatland holds more carbon, so we would be going against certain climate change mitigations. The right tree in the right place is the answer.

Mr M Bradley: Carefully managed.

Ms Sherwood: Carefully managed, absolutely.

Ms Bailey: Thank you very much for being here and for your presentation. I am sorry that I had to leave the room and missed the presentation, but, rest assured, I have read your submission in great detail and agree with everything. There is a lot in that, so thank you. You have done a great job in your respective fields so far. I want to stress the extent of Northern Ireland's threatened species and the level of extinction that we are seeing, as Joanne pointed out. I stress that there is no coming back from extinction. Once it is gone, it is gone. That is our loss — it is everybody's loss. We have so much to do to stem that flow and to try to rebuild the threatened wildlife and habitats.

Victoria, you said that you were keen to work with the Departments and that, although the Bill is a good overarching framework, it is up to us at a local level to fill in and meet our own targets. Do you feel that Northern Ireland has the level of expertise needed to drive this work forward? In particular, do we have the right people? Do we have people who are capable of taking up any appointed roles or new positions to be the voice of protection and accountability?

Mr McGuicken: NIEL has connections across the United Kingdom and cross-border. We have access to a lot of expertise from the bigger non-governmental organisations (NGOs) across the rest of the UK and within our sector, including people who work in Northern Ireland. There are some great people here. If you look more widely across the sector and at the Department, you see that there are some very good people. My view is that we have good people here in Northern Ireland, we have strong linkages and we have international linkages. That is, I feel, quite strong.

Ms Sherwood: There is a question about capacity, whether that is people or budget, to be able to do these things. We are in an invest-to-save situation. We have all become aware that nature underpins services that we all want to enjoy. Whether it is material things, going outside and enjoying nature, clean water or clean air, nature provides the underpinning ecosystem services. It takes people to be able to look at that and make sure that those services are all intact and being provided as they should. There are some very good people. If we have the right jobs at the right level, people will come back. I came back five years ago. I worked across the water for 28 years — I know that I do not look that old [*Laughter*] and I came back. There are also all the links, as Craig has said, between Departments and in the environment sector.

Ms Bailey: I asked the question because of the level of environmental breaches and ongoing disasters that we see consistently across Northern Ireland. Ammonia pollution, air pollution, marine pollution and illegal dumping are just some of the ones that I wrote down. There are even issues with being able to hold the planners accountable to environmental impact assessments. You mentioned trees. The Department announced recently that it will go ahead and plant conifers for reforestation, even though we know that conifers are not what we need. Those are the reasons that I ask about who in the bodies and organisations are driving this forward. Their results to date have not been great. In fact, they have been really damaging in very many ways.

Non-regression is not explicitly stated in the Bill. We hear reports from Westminster that the Government will do all that they can — certainly they are looking actively at what they can do — to circumnavigate their responsibility under that protocol. Have you had feedback from your members? Have there been any discussions within your sectors in reaction to non-regression and potential breaching of the protocol?

Ms Clarke: On non-regression, we are part of a coalition called Greener UK. This goes back to your point that the Welsh Government and Scottish Government — everyone — recognises that non-regression is not committed to. A step further than that is that there is no duty to apply non-regression to the development of legislation. The Bill requires having only "due regard" to those principles, which do not include non-regression, in the policymaking process. You mention environmental impact assessments: non-regression must be underpinned in those decision-making processes as well. It is not just about getting non-regression included in the Bill. It is about getting a requirement that it must be applied by all Ministers across all of Government. That is step one.

As you, quite rightly, said, there are consistent breaches of environmental law. The threat of EU fines has perhaps been the strongest deterrent to breaches. That is why the OEP needs to have a stronger enforcement capacity. It needs to have teeth to be able to take a case further than a judicial review

and a decision notice in order to hold the public authorities to account. The independent EPA would, then, also have the capacity to hold individuals and organisations to account. It is about ensuring that that independence is firmly established and committed to in the Bill. It goes back to the issue of resourcing. Their resourcing must not be held behind a barrier of, "You must meet these criteria". These should be independently funded bodies that can function effectively and with the sufficient resources to meet the need and carry out the functions for which they are set up.

Mr Irwin: Thank you for your presentation. Given all the doom and gloom, I am encouraged that the bird population increased by 49% between 1994 and 2017. That is a surprise to me, but it is good. We must be doing something right. We are not doing everything wrong, if that is the case. Am I right in saying that? What is the reason for the big increase in the bird population?

Ms Sherwood: Some of the generalist species have increased.

Mr Irwin: What do you think is the reason for that?

Ms Sherwood: Looking at the overall health, you need to look at the abundance and the diversity. Just because one increases, it does not necessarily mean that the whole system is in good health.

Mr Irwin: There has to be a reason for that increase.

Ms Sherwood: Yes. The conditions in the environment and the way in which the land has been managed probably favour some generalist species. However, for the specialist species and that broader range of species, it is really important to have a healthy and functioning ecosystem.

Mr Irwin: You mentioned butterflies earlier. Is there any particular reason for the drastic decrease in the butterfly population?

Ms Sherwood: The same sort of reasons: the way in which we have managed our land and the availability of particular habitat.

Mr Irwin: Is that to do with sprays and things like that?

Ms Sherwood: Yes, it could well be. It could be to do with agricultural practices. It could be to do with other forms of pollution. It could be a whole range of factors.

Mr Irwin: If there are flies in the house, we all spray them to kill them.

Ms Sherwood: It is the same with some of the organisms that form soil as well. Soil formation is hugely important in having productive land for agriculture and everything. It is the same with pollination. There is a range of land management practices. You mentioned spraying, but there are others.

Mr Irwin: Every house in the country sprays to kill flies.

Ms Bailey: Not mine. I have a good swatter.

Mr Irwin: You mentioned tree cover. I accept that it is low in Northern Ireland, but, historically, there has been low tree cover for hundreds of years. Am I not right about that?

Ms Sherwood: I do not have statistics in front of me going back hundreds of years, but, historically, Northern Ireland has been low.

Mr Irwin: Absolutely. It is not, therefore, something that we did yesterday or that man has done recently. To my knowledge, it is an historical situation in Northern Ireland.

Ms Sherwood: Deforestation and land drainage have been increasing.

Mr Irwin: I would have thought that the planting over the last few years probably would have made up for it. Do you understand? It would be interesting to see the historical situation.

Mr McGuicken: I do not think that any of us know, but we can try to find out.

Mr Irwin: It would be better to know before making decisions. We should know.

Mr McGuicken: We know that Northern Ireland has one of the lowest levels of cover in Europe.

Mr Irwin: I accept that, but I am saying that it is historical. It did not happen yesterday, last year or 10 years ago.

Mr McGuicken: We agree with that.

Ms Magreehan: What is important is that we understand the role of trees in the climate crisis that we face, the nature and biodiversity climate that we face and the services that trees and woodlands provide for human and environmental health. The woodland picture for Northern Ireland and the island of Ireland is not great. We want that to be addressed.

Further to the point on planting, let us not forget how really important hedgerows are in the landscape.

Mr Irwin: There are a lot of hedgerows in Northern Ireland.

Ms Magreehan: Yes. A well-managed hedgerow is really important for wildlife, as it is for pollinators, whose importance you, quite rightly, raise.

Mr Irwin: I thought that we had many more hedgerows than many areas in Scotland and England.

Ms Magreehan: Yes. They are also an important part of our cultural landscape. Our farmers are proud of managing their hedgerows well.

Ms Bailey: Farmers should take down the fences around them.

Mrs Barton: My question is on a slightly different tack to what everybody else has been speaking about. Does anything in the Bill conflict with the planning rules and regulations that we have here in Northern Ireland? This morning, we heard that planning rules for telephone masts are very strict compared with other parts of the United Kingdom.

Ms Clarke: There are no planning provisions in the Bill.

Mrs Barton: Do you perceive the possibility of conflict with what might be brought in as a result of the Bill?

Ms Clarke: I guess that it depends on the political will to step forward. Planning has a role and a responsibility to protect and enhance nature. The Northern Ireland Assembly has an opportunity to set high targets and high levels of planning regulation that would move us forward into a more nature-friendly process of planning. It is an opportunity that can be taken. We just need the political will to take it forward.

The Chairperson (Mr McAleer): Thank you for attending this morning. Thank you for the information and for taking a wide range of questions. We will interface with you as we move through the Bill and in the time ahead.