



Northern Ireland
Assembly

**COMMITTEE FOR THE
ENVIRONMENT**

**OFFICIAL REPORT
(Hansard)**

**Wildlife and Natural Environment Bill –
Briefing by Northern Ireland
Environment Link**

25 February 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mrs Dolores Kelly (Chairperson)

Mr Jonathan Bell

Mr John Dallat

Mr Ian McCrea

Mr Alastair Ross

Mr Peter Weir

Witnesses:

Dr Peter Christie } NI Environment Link

Prof Sue Christie } NI Environment Link

Mr Sean Kelly } NI Environment Link

The Chairperson (Mrs D Kelly):

I welcome Professor Sue Christie, director; Mr Sean Kelly, policy officer; and Dr Peter Christie

of the Northern Ireland Environment Link (NIEL). Perhaps you would give us a briefing of

approximately five or 10 minutes, after which members will ask questions.

Professor Sue Christie (Northern Ireland Environment Link):

As the Committee knows, NIEL is a networking and forum body for environmental non-governmental organisations (NGOs); therefore, our comments are general and have been agreed by our members. Some of our members have, and will soon, provide much more detailed evidence, which the Committee should consider for greater detail on specific issues.

Although we welcome the legislation, it cannot be seen as the solution to all our problems on protecting our biodiversity and natural habitat. Further legislation will be required, and a fully supported guidance and enforcement regime is necessary, as is full commitment by all Departments, to deliver our ultimate goal of biodiversity protection. Legislation and designations are the vital first steps, but they must be followed with a full programme of management, monitoring, enforcement and communications if they are to have any chance of achieving their goals. Unfortunately, such measures require money and other resources. No matter how good our legislation, it cannot achieve its objectives without full follow-up. Furthermore, a fully

supported planning system must be in place, including a robust and enforced planning policy statement (PPS) 2, to deliver wildlife protection in Northern Ireland.

The duty to further the conservation of biodiversity is highly significant and, potentially, hugely beneficial. However, if it is to fulfil its goals, guidance is required on meaning and implementation, and it must say “shall” not “may” issue such guidance. It requires legal support and interpretation, indicators and monitoring, and there must be consequences such as cost penalties for failure to deliver. In order for those consequences to be understood, a structure that calls organisations to account is required.

The biodiversity duty complements and assists in the understanding and delivery of the duty for sustainable development, which requires similar implementation. Therefore, there are opportunities to integrate those two important duties and to provide clear advice and guidance for all public authorities on how to implement and on the consequences of not delivering. Moreover, there must be monitoring mechanisms to ensure that action is being taken.

The duty to conserve biodiversity must be reported on every three years, or, possibly, in alternative periods that fit in with other reporting time frames: from time to time is not acceptable. There is a danger that a perceived lack of teeth will mean that, as with the sustainable development duty, public authorities will ignore the duty to conserve biodiversity, and there will be no progress. However, it offers great opportunities to engage people with local biodiversity and to help them to learn why it is important and how they can protect it.

The recent Northern Ireland Biodiversity Group (NIBG) report identified significant failings in progress on protecting biodiversity and monitoring progress and improvement and even a severe lack of data with which to assess the state of biodiversity. The duty to conserve biodiversity offers the opportunity to address those issues, but only if it is provided with the authority and practical guidance that is necessary for it to be taken seriously. Words and vague commitments are not enough to protect Northern Ireland's wildlife.

The provision of custodial sentences for wildlife crime is most welcome. Only through such a measure, along with punitive fines and penalty regimes, will people recognise the value of

wildlife and be sufficiently discouraged from causing it harm. We need to show people that we take wildlife crime seriously. There is a need for further clarification on enforcement mechanisms and funding, as the current provision for one wildlife officer is insufficient to convince potential criminals that they will be caught if they break the law.

Northern Ireland Environment Link welcomes the proposed licensing revisions, but greater clarity on procedures is required. There is a need for a central database that contains all information on extant licences in order to ensure proper control across Departments and agencies. We particularly welcome the withdrawal of the “ignorance as an excuse” clause. However, that requires that information on legislation and its outworkings be readily available to all those who may require it.

We feel that only a complete ban on snares will address the issue; the timing of checking is neither enforceable, nor does it offer adequate protection to wildlife or domestic animals. Only the banning of possession of snares makes it a legally enforceable measure. If it is not legally enforceable, what good is it?

Some review of the protection of individual species is required. Barn owls, swifts, seals, cetaceans and turtles all require additional protection, as does the Irish hare, which is one of our few endemic mammalian species. Other witnesses will provide greater detail on those species. Invasive alien species are a threat that could have significant environmental and economic consequences for Northern Ireland. We feel that the seriousness of the issue is not fully recognised in the Wildlife (Northern Ireland) Order 1985, and urge that a requirement be placed on landowners to control invasive species on their properties. That needs to be supported by awareness-raising programmes that endeavour to halt the introduction of aliens and eradicate them at an early stage if prevention is not totally successful.

It should be a serious crime intentionally to introduce any alien species into the wild, and we need powers to ensure the removal of species that are limited but which have the potential to increase. We will need primary legislation to deal with all the issues surrounding the control of invasive species. The potential cost of not keeping invasive species out, or, if that fails, dealing with them severely before they become established, is enormous. Dealing with that issue remains a high priority. Simple pondweeds can cause millions of pounds' worth of damage and must be taken seriously.

Northern Ireland Environment Link welcomes the provision of clauses to further protect our areas of special scientific interest (ASSIs). However, it must be recognised that the management of many sites is still inadequate, and, in a climate of budget cuts, we are concerned that the necessary monitoring and enforcement to support those protective clauses will not take place. Legislation that is not enforced can lead rapidly to people ignoring the law. There are no negative consequences for not doing so.

The protection of the wider countryside and undesignated sites is also vital, but that is not addressed in the legislation. If Northern Ireland is to avoid becoming a network of zoos, with a few highly protected sites in a wider countryside that is devoid of wildlife, the recognition of the need for wider landscape, countryside and ecosystem-level management should be explicitly stated.

The Chairperson:

Thank you for that quick run-through. You will not be surprised to learn that many of your comments have been echoed by other witnesses.

Mr Weir:

I will pick up on one area that was not touched on. We have heard evidence from the Royal Society for the Protection of Birds (RSPB) about the fate of the curlew, and there is a suggestion that it is mentioned in the wrong schedule to the Bill. Does Northern Ireland Environment Link have any views on the curlew?

Mr Sean Kelly (Northern Ireland Environment Link):

Through my involvement with the Northern Ireland Biodiversity Group I know that we agree with the RSPB on that issue. Numbers appear to be declining, but it is my understanding that some of the monitoring counts have taken place in the winter months, when numbers are boosted by birds that come over from mainland Europe.

Mr Weir:

Your position is clear. However, if I am picking up the RSPB's position correctly, there appears to be a degree of contradiction. You are saying that you feel that it is unfortunate that the position on the

protection of the Irish hare has not changed. However, the RSPB's submission gave qualified support to option 1, and felt that the current position on the protection of the Irish hare was something that it would go along with. Can you explain the difference of opinion, as the RSPB feeling that it is adequate and your feeling that it is inadequate?

Mr S Kelly:

It is a question of degree. I do not widely disagree with the RSPB. However, NI Environmental Link would like increased protection given to the Irish hare. There are always debates about what happens to the number of hares, and it is one of the few species for which there is an action plan. It is surprising, therefore, that we have not increased its protection, particularly as we do not have an accurate picture of what is going on.

There is also the issue of brown hares and interbreeding. If the species is specific to this island, I do not see why we do not take the risk and give it that extra protection.

Mr Weir:

I want to play devil's advocate. Obviously, a time frame is built into the reviews. You talked about the need for emergency additional removals from the schedule outside the five-year cycles; however, an amendment to the schedule would require some degree of legislation in relation to that. Surely, if strong evidence came forward outside that period, it would be relatively easy for the Department to put through some degree of change in the regulations fairly quickly. Is there any need for an emergency provision, as opposed to the Department's being in a position to react? If there were strong evidence, I assume that the Department would not wait another three years until the next review. I would have thought that it would be relatively straightforward to put through legislation if it were needed.

Prof S Christie:

They are two different ways of getting the same result: there should either be provision for immediate action or there should be more frequent reviews, because five years is a long time.

Mr Weir:

Without knowing the exact clause, if the Department had the opportunity to make subsequent regulations and there could be a reasonably quick reaction, would that be one way of solving that particular problem?

Mr S Kelly:

Things can happen quickly, and if the Department had the structure and framework to react quickly, that would be a welcome development.

Dr Peter Christie (Northern Ireland Environment Link):

If it is so easy, why not incorporate a few words in the legislation to make it clear?

Mr Weir:

Presumably any regulations or a degree of change in the legislation could be brought in quickly.

Any piece of legislation can be amended. It may just be a question of achieving the same ends by different routes.

Prof S Christie:

That brings up the question of legislative timescales and busy legislative calendars and whether it might not be easy to introduce measures urgently.

Mr Weir:

Regulations can be brought in. This Committee and other Committees frequently have subordinate legislation or statutory rules that have been brought forward on their agendas. As those issues tend to be relatively straightforward amendments, with the best will in the world they can go through the Committee with a nod — with the full public scrutiny of five or 10 minutes — because much of it is fairly straightforward.

In general — having done my best to embarrass the Committee Clerk — that does not require weeks of scrutiny in a Committee. That may be one way of doing that. I presume that there must be a wee bit of opportunity for fluidity because, by the same token, we do not want a situation where, every so often, vast amounts of Committee time are taken up on issues that could be moved through in a more timely fashion.

Mr Kinahan:

Thank you for your comments and the work that you have done. You raised concerns about education or awareness; however, that is a costly approach. However, should we do that through councils? Although some councils have biodiversity officers, others do not, and we should try to give all councils the same mechanism. When I am near a river, I have no idea what half the plants are. We need a big information system that everyone can tap into.

At the beginning of the week, I heard mention of hares on the radio.

The Chairperson:

It was 'Evening Extra'.

Mr Kinahan:

It said that the Irish hare is expanding in areas where coursing is taking place and that it is not in danger. I am concerned about coursers and their thriving industry, which some people may not like, which employs beaglers who may be involved in other forms of hunting. Should we not

ensure that a really good monitoring system is in place and link it to reviews? Reviews should be carried out more often so that if the hare becomes endangered we can deal with it immediately, as we could with plants that need to be banned or removed.

Prof S Christie:

I fully agree that education is essential. It need not be desperately expensive and it can be an awful lot cheaper than dealing with the effects of an invasive alien gone wrong. Councils have a huge role to play. If the review of public administration proceeds, that role will increase, and additional council powers can be rolled in with community planning exercises to bring people along with us.

Every council should have a biodiversity officer to ensure unified delivery. Monitoring is the other side of that. We do not have the information, and, therefore, it is better to err on the side of protection rather than on the side of exploitation, which could lead to a serious problem of low numbers from which there is no recovery. Monitoring is, however, desperately expensive. On the other hand, we might be able to use biodiversity officers, members of the public and NGOs to

do some monitoring. There are creative ways around the monitoring and education issues, but they will require investment.

Mr S Kelly:

I completely agree about working with councils and local schools to improve information and to raise awareness. If we inform people that it is important to protect the environment, they might become unofficial monitors and provide extra eyes. However, if a danger or a pollution issue is reported, resources must be available to ensure that those who have reported the incident know that action has been taken. I often hear anecdotal evidence that people have phoned the helpline to report an issue but that no action was taken. Raising expectations but failing to deliver on them will send out the wrong message — that people can get away with environmental crime. That is not what we are about.

Mr Dallat:

Given the 100-odd vacancies in the Environment Agency, it seems that the prospect of improved enforcement is not great. However, my question is not about that matter. Your submission

states:

“Protection for priority habitats on non-designated sites has not been addressed in the legislation. The loss of biodiversity in the wider countryside is a significant issue that must be addressed.”

I live in the countryside, and I agree with that assertion. The problem is so serious that wild animals that might not normally coexist are forced into the same areas. Fortunately, the Department of Agriculture and Rural Development is not giving grants for ripping up those places. How can we ensure in legislation that the areas that are not designated as high bogs, for instance, will be protected?

Dr P Christie:

Even if it is not possible to create a watertight system, it is worth putting provisions into the legislation that show the intention to protect such areas. It is most important to recognise that they have value and that they deserve protection.

Prof S Christie:

There is a huge hierarchy of designated sites in Northern Ireland, from the world heritage sites down to sites of local nature conservation importance (SLNCI). Recognition of that framework in the legislation would be useful in raising awareness.

As climate change begins to bite, that will become ever more significant, because the protected sites may not be suitable for all the animals and plants that they are trying to protect. Therefore the wider recognition of the importance of the countryside through the work of environmental management schemes with DARD, etc, will become increasingly important.

Mr Dallat:

I do not question your sincerity, but many people say that the road to hell is paved with good intentions. Are good intentions the best we can hope for? In this world of greed, if it becomes financially attractive to rip up what is natural and biodiverse, that is what will happen.

Mr S Kelly:

Designated and non-designated sites were mentioned. I think that I am right in saying that the report that was produced last year by the Northern Ireland Biodiversity Group stated that even in designated sites some of the structures and habitats are not in good condition. That is a problem with designated sites. You will not be surprised to hear that the picture for non-designated sites is no better.

Even though PPS 2, which covers planning and nature conservation, seems to have been about for a long time, nothing has come of it. We have some legislation and some designations, but they do not seem to be operating or applied on the ground. Until there is a clear structure, particularly for planning, and that it is recognised that designated sites are important for climate change and biodiversity, there must be strong evidence for tampering with them. It is important to give designated sites the planning care and attention that they need.

Prof S Christie:

One can also look at the vertical versus the horizontal. Legislation will, we hope, be enforced if

anyone damages a designated site; however, there are also the horizontal aspects, such as work on invasives, forbidding certain activities everywhere or stipulating that certain standards must be enforced everywhere in the wider countryside. That is a way to get additional protection for wider areas.

Mr S Kelly:

It might also come back to education and awareness. What is and what is not permissible in an array of sites and Departments is covered in many pieces of legislation. Although it is important that ignorance is no longer accepted as a reason for doing something, it would be made easier and more enforceable if people had a central reference point of what is and what is not permissible in designated and non-designated sites.

The Chairperson:

Thank you for your presentation and for attending the Committee meeting. We have two further briefings this morning, so time is tight.