



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

OFFICIAL REPORT
(Hansard)

Forestry Bill

8 December 2009

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Ian Paisley Jnr (Chairperson)
Mr Tom Elliott (Deputy Chairperson)
Mr Willie Clarke
Mr Pat Doherty
Mr William Irwin
Dr William McCrea
Mr George Savage
Mr Jim Shannon

Witnesses:

Mr Nick Harkness)	
Mr Mike McClure)	Sport Northern Ireland
Mr John News)	
Mr John Hetherington)	Premier Woodlands Ltd
Mr Roger Pollen)	British Association for Shooting and Conservation
Mr John Hetherington)	

The Deputy Chairperson (Mr Elliott):

I welcome the representatives from Sport Northern Ireland. Please make a short presentation, after which Committee members will ask some questions.

Mr Nick Harkness (Sport Northern Ireland):

Thank you very much, Chairman.

I thank the Committee for the opportunity to give evidence on this important Bill. I am the director of participation at Sport Northern Ireland. Mr John News is our participation manager, and both of us are generalists in sport. We have brought along Mr Mike McClure, who is our countryside development officer and who specialises in the development of participation opportunities in countryside sports.

In Sport Northern Ireland, we believe that forests provide a unique and vital opportunity for the people of Northern Ireland to lead physically active lives. We see the Bill as an opportunity to secure their use for that purpose.

We would like to give you a brief introduction to the work of Sport Northern Ireland, the lead public body for the development of sport and physical recreation in Northern Ireland. We will introduce you to some context issues of public health and well-being to which, we believe, forests are well-placed to contribute. We will also propose some modest, but nonetheless important, modifications to the Forestry Bill.

As regards the strategy for investing in and developing sport, we propose a vision of a culture of lifelong enjoyment and success in sport. That is articulated in our strategy and in the new strategy for sport, which was approved by the Executive last week. We have three strategic objectives to meet to deliver that aim: first, to increase participation in sport; secondly, to improve sporting performances; and thirdly, to improve the efficiency and effectiveness of the delivery of sport and sporting bodies.

Our strategic aims contribute to the overall strategy for sport, as I have said. It was developed largely by John and me with the Department of Culture, Arts and Leisure (DCAL). Last week, it was approved by the Executive. It proposes three relevant areas of investment; three pillars of work, which are participation, performance and places for sport. Of particular relevance to the Forestry Bill, as regards how the forest infrastructure can contribute, are participation and places for sport.

We believe that government invest in sport for two reasons. First, there is the intrinsic value

of sport — it is good in and of itself — and the personal benefits that enjoyment of it brings to people. Secondly, there is the extrinsic or social benefit that promotes other government agendas, such as social capital, regeneration, contribution to GDP, health benefits, and so on.

Mr John News (Sport Northern Ireland):

I will not take you through the detail of the draft strategy — sorry, I must stop calling it the draft strategy — the strategy, which has been approved by the Executive. I will simply give you a flavour of how it was developed and what it will attempt to achieve in the next 10 years.

At its heart is a vision of a culture of lifelong enjoyment and success in sport. As Nick has already mentioned, we consider that outdoor recreation has an important part to play in that culture. When we developed that vision, that strapline, there was a definite emphasis on trying to effect cultural change. We envisage a Northern Ireland where, in 10 years' time, there will be an approach to recreation, participation and active lifestyles that is similar to the approach that we see in places such as Australia or Scandinavian countries, where sport and physical activity is a way to bring communities and families together and to promote intergenerational work.

All of that is premised on a notion that the strategy will also help the Executive to deliver the Programme for Government. Therefore, the strategy seeks to promote economic growth and job creation; to improve the health and well-being of people in Northern Ireland; and to facilitate skills development. We see sports and events as having an important role to play in improving Northern Ireland's image at home and abroad. We will return to those aims a bit later on; Michael will pick up on some of them in his contribution.

The strategy was not prepared simply by DCAL and Sport Northern Ireland. An extensive consultation process was undertaken, with events throughout Northern Ireland that involved district councils and community and voluntary sector organisations. We are pleased to say that all of the Departments and a number of arm's-length bodies and agencies, such as the Forest Service, responded to the consultation at that stage.

The strategy for sport is a people-centred document; therefore, it is about improving quality of life. It is not simply about structures and setting up organisations. It is about how sport can improve quality of life for people in Northern Ireland.

Sport Northern Ireland is not here simply to talk about what other people must do. Tollymore Mountain Centre is an important element in the delivery of the strategy. Sport Northern Ireland has invested in outdoor recreation for a number of years. In particular, it looks forward to the completion in early 2010 of what will be a world-class national outdoor centre in Tollymore forest.

Tollymore Mountain Centre, for those who are not familiar with it, is already a world-class centre. However, when the project is completed, we will have the buildings and facilities to go alongside that. Every year, the centre trains over 230 leaders, who, in turn, cascade their experience and the benefit of their knowledge to thousands of young people right across Northern Ireland, giving them an opportunity to have a positive experience, to learn about the environment that they grow up in, to explore their own boundaries, and to have a more positive, life-enriching experience.

As regards the context in which the strategy has been developed, we have predicated it on the Programme for Government, particularly certain aspects of it, such as health and well-being. We provided some data on obesity to the Committee in advance of today's meeting. Obviously, that is a predominant issue for the Assembly. Just last month, the Committee for Health, Social Services and Public Safety produced a report on obesity.

Although obesity figures are familiar to many people, it is worthwhile reiterating some of them: 59% of adults in Northern Ireland are either overweight or obese; 22% of children are either overweight or obese; and 260,000 working days are lost to Northern Ireland because of obesity, with a cost to the economy of £500 million per annum. That is the downside. The flipside is that only 30% of people in Northern Ireland meet the Chief Medical Officer's recommendations for physical activity. There is a direct correlation between the percentage of people who are overweight and obese and the number of people who actually achieve the level of activity recommended in the guidelines.

Therefore, the strategy is very much focused on upping the percentage of people who meet the Chief Medical Officer's recommendation. It is about getting more people to be physically active. We see it as also helping to improve economic competitiveness: if more people are active, they are less likely to be off work due to ill health or stress-related illness. They are also less likely to feel pressured within a work environment or climate.

Why would forests be important in the context of the strategy? We believe that they are important because they provide individuals with many and varied opportunities and the ability to exercise personal choice as to the type of opportunities in which they want to become involved. They afford individuals opportunities to take personal responsibility for their actions. They also provide opportunities for individuals to get involved in low-cost activities. It costs nothing to go for a walk through a forest park.

Obviously, cost is one aspect that we have focused on in the strategy. We want to ensure that physical activity, sport and recreation are accessible to everyone, and not just to people who can afford to pay to play. Finally, we want to ensure that it is inclusive. Those words encapsulate the principles upon which the strategy for sport and physical recreation has been premised.

Mr Mike McClure (Sport Northern Ireland):

We also provided the Committee with information on the differences between the situation in England, Scotland and Wales and the situation in Northern Ireland. When you look at the number of public rights of way and the access opportunities that people have to take part in outdoor recreation, they are considerably fewer in Northern Ireland than they are across the water. For example, Northern Ireland has only 129 miles of recorded public rights of way, whereas England has 118,000 miles. That equates to 2.3 miles per sq mile, compared with 0.02 miles in Northern Ireland.

Legislation that covers access also differs greatly. In England and Wales, legislation was reviewed around 2000. That resulted in what is known as the CROW Act — Countryside and Rights of Way Act 2000 — in England and Wales and the Land Reform (Scotland) Act 2003 in Scotland. Both pieces of legislation have increased the capacity for outdoor recreation considerably by opening up upland, moorland, and, in Scotland's case, all land, for outdoor recreation, with caveats of responsibility.

In Northern Ireland, the Department of the Environment has made it clear that it has no intention of carrying out that process and we must, therefore, work within the Access to the Countryside (Northern Ireland) Order 1983. We feel that there is an opportunity for the Forestry Bill to provide access to publicly owned land for outdoor recreation. That access is not provided for in the current legislation.

One of the reasons for the difference in the legislation is that the landowning style and history in Northern Ireland is very different to that in Scotland, England and Wales. That is a major factor. The situation in Scotland has been shown to work, and we believe that the same situation could work here if there were increased access to public land.

In Northern Ireland, the Forest Service and DARD own 5.7% of the total land area in Northern Ireland. That is a considerable amount of public land. In England and Wales, the Forestry Commission has seen it as a clear responsibility and a statutory requirement to provide for outdoor recreation to the public. We think that the Bill provides an opportunity to recognise that role and to place a duty on the Department to provide for outdoor recreation. Coillte, which is the forest service in the Republic of Ireland, has also seen the responsibility as a licence to provide outdoor recreation facilities.

In 2008, we commissioned research on the development of outdoor recreation through the Countryside Access and Activities Network. Anecdotally, we believed that we were seeing an increase in the number of people participating in outdoor recreation, but we wanted to confirm it, and we saw a considerable increase in participation — the research highlighted a 152% increase over the past 12 years. The Tourist Board identified activity tourism as a winning theme for Northern Ireland in developing the economy, and the two signature projects for the Mourne and the Causeway Coast and glens have highlighted outdoor recreation and activity tourism as significant aspects of that role.

Furthermore, a number of high-quality, innovative products have been developed for outdoor recreation in Northern Ireland. In particular, the development of the canoe trails has been recognised nationally in Ireland, internationally in Europe and in England, Scotland and Wales as being unique, innovative and award-winning. Again, there is an opportunity for the Forest Service to develop something that is unique to our forest parks.

The Treasury has established a value for recreational visits, which is used to create the subvention for the Forestry Commission in GB. That research has been used to identify that the recreational use of forests in Great Britain contributes £585 million to the GB economy. Using the Barnett formula for Northern Ireland, that would equate to £16.8 million of economic value through recreational visits to forests. The overall social and environmental value of forests in

Great Britain has also been calculated to be £1.5 billion. That study was carried out by the Centre for Research in Environmental Appraisal and Management at Newcastle University.

Mr Harkness:

To summarise, Sport Northern Ireland proposes four modest, but nonetheless important, modifications to the Bill. First, we believe that it could be modified to more clearly recognise the high value that forests can have for the recreation, health and well-being of the Northern Ireland population. We believe that, as it stands, the Bill underplays the contribution that forests can make to the quality of life of people in Northern Ireland.

Secondly, we propose that the Bill be amended to place a duty on the Department and the Forest Service to provide recreational opportunities in forests for public enjoyment and health. We believe that that is consistent with the work that is being proposed and developed in the strategy for sport and cross-departmental anti-obesity work that is already under way. As a result of that modification, the Forest Service could become one of a number of lead bodies in Northern Ireland delivering outdoor-recreation and physical-activity opportunities.

Thirdly, we believe that the Bill rightly articulates the tourism opportunities available in the forest estate, but it underplays the value of forests to our local population. We believe that the value of forests and the recreation and physical well-being opportunities that they offer could be more greatly emphasised.

Finally, we propose that the Bill be amended to include a statutory right for sustainable and reasonable recreation in forests rather than simply a statutory right of pedestrian access. The Scottish example shows that that is a workable proposal with valuable outcomes.

My colleagues said that Sport Northern Ireland already has a footprint in Tollymore forest park with an outdoor recreation training facility that trains leaders, who, in turn, provide young people and beginners with active-lifestyle opportunities and introduce people to the countryside. We understand that the Committee's next meeting will be at Castlewellan on January 20. We are developing a £5 million state-of-the-art, international-standard facility there, and we would love to invite the Committee to see it on that or some other date.

The Deputy Chairperson:

Thank you for your presentation. I should have apologised at the outset for the Chairperson's absence. He is in the Chamber for the Final Stage of the Diseases of Animals Bill. He should join us later.

Does Sport NI recognise the shooting fraternity as a sporting organisation?

Mr McClure:

As an Olympic sport, shooting is a recognised sporting activity, but hunting as such is not a recognised sporting activity.

The Deputy Chairperson:

Do you see any conflict in the Bill between what I will call sporting organisations, because they classify themselves as such and have licences and permits to shoot in forests, and wider tourist activities or statutory rights for sustainable and responsible recreation in forests?

Mr McClure:

Not really. There is considerable shooting on the Scottish uplands at certain times of year, where systems and procedures clearly inform walkers, hikers and cyclists of shooting times. That works over there, and there is no reason why a similar scheme could not work in the public estate in Northern Ireland. That would require restrictions on walkers at times, but no one could object to that when hunting and culling are taking place.

Mr News:

Although we would like greater access rights, with those rights comes responsibility. Sport NI's approach to promoting outdoor recreation is to balance rights with responsibilities. It is a question of responsible use, but individuals, too, have a responsibility in how they interact with other users. Examples of good practice are shared-use walking, cycling and horse-riding trails. Each user must respect the other users and recognise that they, too, have rights.

The Deputy Chairperson:

I am pleased that you mentioned that, because the Committee hears a lot about giving people greater access rights but very little about the responsibilities that go with those rights. People expect to be able to go across land and use it for leisure or enjoyment, but they forget about their

responsibilities towards that land and its owners. The Committee is happy to receive further information on how you see that system operating.

Mr McClure:

We require all our outdoor sports to adopt the principles of the Leave No Trace programme, which has been adopted throughout Ireland and is a worldwide movement of responsible use of the outdoors. The programme is less of a countryside code with a set of dos and don'ts and more of an ethical and educational process to teach people how to behave responsibly towards landowners, other users, livestock and wildlife.

The Deputy Chairperson:

That is useful. Do you have a policy on liability for the owners? We are all conscious of insurance claims. Have you any advice that you can give on the responsibility or liability of those who use the forests and their owners?

Mr McClure:

We do not have a policy on liability. Last year, we, along with the Countryside Recreation Network, which is a UK-wide body of all the organisations involved in countryside recreation, commissioned research through Sheffield Hallam University to look at that issue and the number of cases. There are remarkably few successful cases where someone has been sued for recreational activities by a landowner. Often, insurance companies will pay out-of-court settlements. That research has been done, and it was quite an extensive piece of work. It can be made available to the Committee.

The Deputy Chairperson:

That would also be useful. Your final recommendation to modify the Bill was:

“To provide a statutory right for sustainable and responsible recreation in forests rather than just a statutory right of pedestrian access.”

I assume that that cannot happen on its own; it is a much bigger issue and must be done in conjunction with other bodies or organisations. You do not just provide sustainable recreation. Surely, other co-operative and statutory bodies must be involved, or are you expecting Forest Service to do it all?

Mr McClure:

I will give an example of what happened in Scotland. Scottish Natural Heritage was the lead agency on the issue, and it worked up the legislation that opened up Scotland for public access. However,

along with that, it also developed the ‘Scottish Outdoor Access Code’, which is quite a thick document that details what constitutes responsible access and what activities are within scope. For example, the responsible sustainable access was for non-motorised activity. Therefore, if people want to take part in motorised activity, they must have a licence or a permit. However, Scottish Natural Heritage gave clear definitions of what constituted responsible sustainable recreational activities.

You are absolutely right; there would be a need to work up what that would do. Sport NI and, I imagine, the Department of the Environment would be willing to work alongside Forest Service to develop something like a forest access code that could be used in conjunction with opening that up.

Mr News:

You asked about partnership and not just expecting Forest Service to do this on its own. There are examples of partnership working in places such as Scotland, Yorkshire and the Lake District where forests have been opened up to other forms of pedestrian and non-pedestrian access, whether that involves cycling, walking or water-based activities. That has not been done just by the Forestry Commission or by Scottish National Heritage; it has been done in partnership with governing bodies of sport, the district councils in those areas, and the private sector. It has been done successfully, to the point where it has helped to rejuvenate and regenerate some of those rural communities. It has helped to bring new jobs to those areas, it has helped to attract new visitors, and it has helped to improve the quality of life for people living in those areas, such as Dalby Forest in north Yorkshire.

The Deputy Chairperson:

Of course, one does not have to go to Scotland or England to see examples. Fermanagh District Council runs a successful partnership with Forest Service, and I declare an interest as a member of Fermanagh District Council and a landowner.

Dr W McCrea:

I am glad that the Chairperson pressed you on your demand for the right of access and the increasing right of access. Clause 2(1) of the Land Reform (Scotland) Act 2003 states that:

“A person has access rights only if they are exercised responsibly.”

Mr McClure:

Absolutely.

Dr W McCrea:

Who makes that judgement call?

Mr McClure:

It comes down to the individual acting responsibly. However, there are clear definitions of what those responsibilities are, and Scottish National Heritage can —

Dr W McCrea:

That is not good enough. You say that it is up to the individual, but who takes liability if someone is looking for access across farmland, etc?

Mr Harkness:

Many of the governing bodies who look after the sports in which the participants will be members have codes of conduct which advise their membership on reasonable behaviour. The ultimate sanction is loss of membership of the association and, therefore, the ability to participate.

Dr W McCrea:

Who would be liable if animals died, for instance, through their actions?

Mr Harkness:

It would be a personal liability.

Dr W McCrea:

So the person who has gained the access across the land that everybody is looking for would be liable.

Mr Harkness:

Yes.

Mr News:

We have talked about statutory access for sustainable and responsible recreation. However, we are talking about the Forestry Bill rather than a wider debate about access to all land, to which you rightly referred. The strategy for sport and physical recreation sets a target to have access to

publicly owned lands, in the first instance, over the next 10 years. There has been a long-running debate throughout the UK about access, and, particularly in Northern Ireland, about liability and responsibility. The consultees to the strategy for sport and physical recreation felt that if we could make publicly owned land accessible, then, within 10 years, private landowners would have a degree of confidence, and liability would not be such an issue that it is perceived to be today. Time will tell, but the strategy looked at publicly owned land in the first instance.

Dr W McCrea:

In all your opening remarks, you and Mr Harkness made only general comments. In fact, the Forestry Bill was not mentioned until your last sentence, just before you handed over to Mr McClure. I was wondering where the Forestry Bill came in the midst of it all. Who should have responsibility for the upkeep of the rights of way?

Mr McClure:

That responsibility currently rests with district councils.

Dr W McCrea:

Therefore, if any right of way is designated —

Mr McClure:

The council has responsibility for the maintenance of asserted rights of way. However, a number of rights of way are not asserted, but are deemed to be rights of way by the public; councils have no responsibility for those.

Dr W McCrea:

The Forestry Bill does not just take in sport, in which you have an interest. You know that there is a lack of wooded areas in Northern Ireland; in fact, it is has less than most regions. How can the Department not only promote but expand forests in Northern Ireland? That would achieve your end, because sporting activities cannot take place in the wooded areas if they are not there.

Mr Harkness:

We are the wrong people to advise on the expansion of forested areas. We have an interest in countryside recreation per se —

Dr W McCrea:

Do you not have any comments to make?

Mr McClure:

Over the past number of years, I have noticed that a number of large private landowners have become interested in diversification. The Countryside Access and Activities Network is working on a number of ongoing projects to develop recreation on private land. A number of landowners would be interested in increasing the amount of forested area on those lands. I imagine that the woodland grants system that Forest Service provides, for example, would be a big incentive. A combination of that grant and grants for increasing opportunities for recreation through trail development, for instance, would work well to develop not only the forested areas but outdoor recreation opportunities.

Mr News:

A lot depends on how forests are perceived. We have some fantastic, expansive forests, such as Tollymore, but a forested area does not have to be so expansive. It can be a much smaller area. We are also looking at green lungs in urban areas, but that falls within the ambit of the Planning Service. Within the strategy for sport, we would like to see the implementation of the six-acre standard. It is about playing pitches and more formal recreation spaces, but it is also about open, green, forested areas in urban areas as well as in rural areas. It is, therefore, also about the implementation of policy planning statements.

Dr W McCrea:

You talked about the advantages of forests for recreation, health and so on. Do you see a possible conflict of interest in Forest Service competing with private business in those areas? There are quite a number of private businesses in the fields of health, well-being and recreation. What parameters should be laid down in the use of public areas that may be in competition with private business?

Mr News:

I mentioned Dalby Forest in North Yorkshire, which I had the fortune to visit in the last few months. It is a prime example of publicly owned, Forestry Commission land that is subject to a productive public-private partnership approach. The land is leased out to a number of different private sector providers. There are log cabins that people pay to spend expensive weekends in.

There are trails, which provide opportunities for local walking shops, outdoor-pursuit shops and bike shops. There is also a cafe that is run by someone from the local village. That is an example of private enterprise working with the public sector. It is about ensuring that both partners work to their strengths, rather than the public sector trying to behave as a private enterprise. Equally, it is not about transferring ownership of a valuable public estate into private hands.

Mr Harkness:

There are two aspects to that, the first of which is casual use for personal enjoyment. I cannot see much of a conflict where people want to enjoy a piece of forest ground on their bike or horse. However, there is also the more commercial aspect, in which people want to join a group of like-minded individuals to enjoy an activity. The opportunity for partnership with the private sector is non-challenging to the private sector. The forest environment creates opportunities, and there are already examples in Northern Ireland. For example, Forest Service has a commercial arrangement with a high-ropes provider and a countryside recreation provider in the Newcastle/Castlewellan area.

Dr W McCrea:

One last question —

The Deputy Chairperson:

Very quickly.

Dr W McCrea:

The Deputy Chairperson mentioned sporting activity, and there are all these other things that you see going on in forests. Does the Department own the sporting rights across all the forests? If not, how do we create a balance with the other activities?

Mr McClure:

I assume that by sporting rights, you mean shooting rights. The Department may not have those rights, but surely, as the landowner, it has a duty of care to inform users of that land of what is going on there.

Dr W McCrea:

There is no point in having the rights if they cannot be used. If you have rights that you wish to

exercise —

Mr McClure:

Presumably responsibly. I imagine that the people who hold the sporting, or shooting, rights act responsibly. There needs to be a system that facilitates a flow of information between interested parties.

The Deputy Chairperson:

I want the remaining questions and answers to be concise, because time is moving on.

Mr Doherty:

Thank you for your submission. Dr McCrea has largely covered my first question.

The Deputy Chairperson:

I knew that you were working in co-operation.

Mr Doherty:

I have been saying that for some time; right, Jim?

Mr Shannon:

I think so.

Mr Doherty:

When you talked about the legal right of access, were you referring to public land?

Mr McClure:

Yes; I was referring purely to public land.

Mr Doherty:

Will you elaborate on the Active Woodlands scheme, which is run by Forestry Commission Scotland? Will you also elaborate on your point about the statutory right to recreation and access?

Mr McClure:

Forestry Commission Scotland set up the Active Woods scheme because it sees it as its duty to provide opportunities for recreation, and it has set up activities in forests. It established mountain bike trails and walkways, and play areas for children. It has been very innovative — one of the things that it has done is create walking routes for parents and aligned routes on which children can go through tunnels, climb over logs and swing on ropes. The purpose of those schemes is to attract a range of people into forests who do not normally participate.

You will have to remind me what your second point was.

Mr Doherty:

I asked about the statutory right to recreation as well as access.

Mr McClure:

We were thinking about things like family cycling and horse riding; things that encourage responsible and sustainable recreation but do not have a major impact on the land or on operations in the forests.

Mr Harkness:

Our interpretation of the current draft of the Bill is that only pedestrians have rights of access. That right does not exist for people on horseback or on a bicycle.

Mr Doherty:

It does not exist?

Mr Harkness:

That is our interpretation of the current draft of the Bill.

Mr Savage:

You have outlined what you would like to see in the Bill. I know that Sport Northern Ireland has worked closely with the Forest Service. Can Sport Northern Ireland come together with the Forest Service in order to bring recreational facilities into line with what is happening in the rest of the UK and other places?

Mr News:

Absolutely. In the draft strategy for sport and physical recreation, we make the point that Tollymore Forest Park will be a world-class, iconic national outdoor centre. More than that, however, Northern Ireland has one of the richest and most diverse natural tapestries — that is the phrase that we use in the strategy — given the proximity of the Mourne to the north coast and the Fermanagh lakelands. None of those places are much more than 60 minutes' drive time from one another. There is an expanse of forest estate that is spread across Northern Ireland, notwithstanding the fact that we have one of the lowest levels of wooded area. People in Northern Ireland live within a few miles of a forest area of some description, whether it is a major forest or a small wooded area. Rural communities and Forest Service are key partners in delivering on the targets and objectives of the strategy for sport and physical recreation.

Now that the draft strategy has been approved, the Department of Agriculture and Rural Development and Sport Northern Ireland will look to its implementation, part of which will be to strengthen existing partnership arrangements and create new ones. Those partnerships extend to the Forest Service and to other organisations, such as the Mourne Heritage Trust, the Causeway Coast and Glens Heritage Trust, district councils throughout Northern Ireland, and the wider community and voluntary sector. The short answer is yes.

Mr Savage:

I was glad to hear you say that public liability would be shared with regard to access to land. That is important.

The Deputy Chairperson:

Especially to landowners, George.

Mr Savage:

It has been a thorn in the side of landowners. I declare an interest, Deputy Chairperson.

Mr W Clarke:

I joined the visit to Dalby Forest, which was valuable and a good example of good practice and people working together. We went because of the Tollymore master plan, and particularly the mountain biking and the Go Ape project. That is what we want to have in the Bill with regard to recreation and well-being.

Most of the issues have been touched on. Access is a big issue, even in relation to bringing mountain biking to Rostrevor and Tollymore. Forest Service could not get its head around that; it took a great deal of time to do that. What weaknesses do you still see in regards to that partnership working? I know that it is probably difficult for you to go on the public record because you are working in partnership and you do not want to start betraying confidences. I am just dealing with the mountain biking aspect because pulling together all of the partners was very difficult. At times, Tourist Board money could have been lost. What are your frustrations in that regard?

Mr Harkness:

We have had valuable working relationships with Forest Service, and we would like those to continue, grow and develop, and become more meaningful in relation to opportunities for physical recreation. The legal constraints that we perceive to exist on the Forest Service mean that it does not have the freedom to work, spend and open up as we would like it to in order to develop opportunities. It sees its role as different from what we would like to see. This Bill is the opportunity to change that for the future, so that it is clearly defined that there is a role for the forest estate in Northern Ireland to deliver for the health and well-being of the population. Getting that right creates the foundation on which Sport Northern Ireland and Forest Service can work more in partnership to deliver recreational opportunities.

Mr W Clarke:

That is why it is important to get it right.

Mr McClure:

We work closely with Forest Service on its recreation strategy. I was on the steering group. One of the issues that continually came up was that there was no duty on Forest Service to do this. That was one of the difficulties that it stated, which is why we believe very strongly that this Bill has the opportunity to place a duty on Forest Service. My understanding is that Forest Service would welcome that because it would start to give it a remit for doing the things that it is doing.

Mr Harkness:

It perceives itself to be constrained currently in what it is empowered to do.

Mr W Clarke:

I have two other points.

The Deputy Chairperson:

Please ask precise questions, because we are moving on. I have given you some flexibility, although it is fine if you have a couple of questions.

Mr W Clarke:

I am not going to argue with you. You gave others a lot more flexibility than you gave me.

Dr McCrea touched on the issues of your organisation giving resources towards access, and the issues of access, infrastructure, maintaining access and combating erosion. Do you see your organisation putting money into the pot in that regard?

Mr Harkness:

From time to time, we have capital moneys. As many of you know, we also run capital investment programmes. Those tend to be for fixed projects. We do not tend to provide ongoing revenue funding for evermore, because our budgets would be consumed if that were the case. We tend to challenge projects with an opportunity to display their capital need at the outset, and potentially a short-term revenue need, but display their ability to be sustainable into the future. There are lots of models around which countryside projects, as well as pitch-based or indoor-based sports, can develop sustainability in relation to their financial needs.

Mr News:

Our investments in countryside recreation tend to be strategic, so they go towards helping governing bodies to build capacity, identifying where the access needs are most acute, and working with organisations like the Countryside Recreation Network in Northern Ireland and the Countryside Access and Activities Network. Mr Clarke made a reference to Tourist Board moneys for trail development; those moneys were secured as a result of investments that we made to secure it. That is how we see our investment having maximum leverage.

Mr Shannon:

I will be straight to the point, because I am very mindful of what has been said. The access issues have been touched on by everyone, so I will not go into those again. I have met you all before on

numerous occasions through the Committee for Culture, Arts and Leisure. It is all about the management of Forest Service land. Do you accept that there are many bodies that have demand upon Forest Service land, and, therefore, that that land can only be managed in co-operation with all of those bodies? Do you see a management plan for the Forest Service land overall?

Mr McClure:

Absolutely. Forest Service has developed a strategy for recreation, and as part of that strategy there will need to be more specific management plans, partly for specific forests, but also an overarching management plan for managing recreation and harvesting activities, for example.

Mr Shannon:

The reason I asked the question is that the Department of Agriculture only controls sporting rights on 50% of its land; there is obviously 50% that it does not control. With that being the case, do you accept that that 50% that is used for sporting activity — shooting activities in particular — cannot be used for leisurely walks through the forest, or mountain biking, for instance? Do you accept that?

Mr McClure:

Under the Bill, there will be a statutory right of pedestrian activity, and that will have to be managed if that comes into force. Therefore, other activities could be managed in the same manner. They could be managed through local by-laws, information sessions, noticeboards, displays and that sort of thing.

Mr Shannon:

The thrust of what you are saying is that whatever is done on Forest Service land has to be done in a managed way, with the co-operation of all the bodies and the understanding of previous usage of the land.

Mr McClure:

And people's needs.

Mr Shannon:

People's needs as well. I think one of you earlier mentioned the issue of insurance cover, and said that that was down to the individual or to the landowner. I am conscious of Tollymore,

where mountain biking is one of the sporting activities that take place there. I have a neighbour who is involved in that sport who fell in Tollymore Forest Park and was quite seriously injured. He has not worked for the year and a half since. Will you clarify the position on insurance cover?

Mr Harkness:

I am an exponent of the countryside sports, including mountain biking, and I have been involved in court cases where people have been injured in countryside activities. It is a sport with a degree of risk. One never goes mountain biking without the prospect of falling off, and one never falls off without the prospect of an injury. The equipment is designed to be used on rough terrain, so it would be difficult to prove in court that the person who owns the terrain would be to blame if someone fell off because the terrain was rough. The participant goes into the sport. It is termed an adventure sport, and adventure implies risk. Judging by the court cases that I have seen operating, there is a degree of responsibility and liability on the individual who makes the decision to participate in a risky activity.

The Deputy Chairperson:

Thank you very much for your presentation. It is much appreciated.

Mr Harkness:

Thank you.

The Deputy Chairperson:

We will now move on to the second witness session with Premier Woodlands. I invite John Hetherington to come forward. You are very welcome. It is over to you to make a short presentation and leave yourself available for questions.

Mr John Hetherington (Premier Woodlands Ltd):

Thank you very much for this opportunity. I am seriously struggling to understand the purpose of the proposed legislation. I have 30 years' experience in forestry, and worked with the Forest Service a long time ago. I struggle to understand what some of the clauses of the legislation are for. If I understand the policy going forward for the Forest Service, it is to double the area of woodland cover in Northern Ireland. I have worked in the industry for 30 years, and, in my simple opinion, sadly, the Bill will not achieve those aims.

I have already sent a submission to the Committee, so I will comment briefly now on the four parts of the Forestry Bill. There is little evidence to suggest that a reasonable case has been made for handing the Forest Service the extreme powers that it is asking for.

Part 1 of the Bill deals with the functions of the Department. We understand that the Department of Agriculture and Rural Development's policy is to double woodland cover in Northern Ireland, yet the Bill simply talks about promoting forestry. It does not mention increasing woodland cover. That is hugely significant. Surely one follows on from the other?

The Forestry Act (Northern Ireland) 1953 limits the Forest Service to working solely within the forestry remit. However, the Bill will allow the Forest Service to operate as a private company that can do anything that it wants to. It will give the service a huge range of powers. Under clause 7, which deals with incidental powers, the Department would be allowed to undertake anything that it sees fit to. That is a very wide-ranging power.

The state Forest Service has a huge base to work from, given that it owns 70% of all woodland in Northern Ireland. By contrast, the private sector in Northern Ireland is very small. The Bill encourages that distinction even further. It puts the private sector in a very unfair position. In my commentary, I will look at balance, fairness and evidence. In my opinion, the balance in the Bill is wrong. The Bill is not fair to the small private sector.

Where is the evidence that some of the powers in the Bill are required? For example, the Bill gives the Department the power of compulsory acquisition of land to secure access for either releasing timber reserves or for wind farm expansion. The private sector does not have the ability to do that. One would have to ask why land was purchased in the first place if there was not adequate access to it, considering that the Bill says that the land has to be used for forestry. That is fairly simple language. Why was that land purchased 40 or 50 years ago when there was not adequate access to it? That seems odd.

Part 2 of the Bill is entitled 'Protection of Forest Trees from Damage'. There is some indication that the Forest Service owns only 50% of the shooting rights within its own estate, although I do not think that anyone knows for sure. I do not think that anyone has ever worked it out. It is fairly significant, anyhow. Given that the Forest Service has only three wildlife wardens to undertake control of animal species, how can the service say that, if the expansion of

woodland cover happens and deer are perceived to be a huge threat, it requires authority to go on to third-party lands? Does it have the staff to do that? The simple answer is no. Why, therefore, should Crown exemption be extended to privately owned land? There seems to be little logic to that.

I am also involved in the British Deer Society. Although we all recognise that deer have to be managed, there is no evidence that they are causing a huge problem. There is merely a perception that they might create a problem. I may be wrong, but my simple understanding of legislation is that it is put in place only when a need for it has been demonstrated, not as part of a wish list. I shall move on quickly. I could say lots of other things, but I am watching the clock, and I want to give everyone a fair chance.

With respect to part 3, 'Felling of Trees', we asked the Forest Service why it feels that it ought to be exempt from the felling-licence system. It indicated that there is no need for the felling-licence system to apply to it because all its woodland is sustainably managed to the UK woodland assurance standard. However, the private sector also manages woodland to the same standard. Hopefully, we are being treated the same, yet we are expected to pay for felling licences, assuming that the Forest Service approves our felling and management plans, for which it still has not issued detailed requirements. I am very familiar with forest management plans in Scotland, which are huge documents that cost a lot of money. Thankfully, they are grant aided there, but there is no mention of grant aid here. All those things discourage people from planting more trees. Let us not lose sight of the fact that the policy is to increase woodland cover. We are constantly and negatively knocking that aim.

Finally, with respect to part 4, 'Miscellaneous and Supplementary', there is huge concern that the public will be granted pedestrian access to the whole Forest Service estate. The Forest Service does not own the sporting rights to 58% of its land holdings. I manage sporting rights for certain owners within the Forest Service estate and, even though I have raised the matter in management meetings in which horse-riding licences were granted for certain forests, to date, there have been no discussions with the owners of sporting rights. The Forest Service is not complying with the UK woodland assurance standard, which states that all stakeholders should be consulted.

We control deer populations — at no expense to the Forest Service — to help to ensure that

they do not cause damage. I hope that there are no horse riders about when we are shooting, because their horses will get scared. In such circumstances, who is liable? We should be working together and applying common sense, but that is not happening.

My company operates throughout the UK, including in Scotland, and Southern Ireland, and we welcome responsible public access. However, few members of the public who enter woods have any idea about responsible use. We get abuse when we ask them what they are doing. They leave litter behind and gates open, allowing livestock to get out. They do not control their dogs. Public access is a huge issue. That said, I still believe that all landowners should welcome responsible usage of their land. However, who will educate the public on that huge issue? There is no cultural history of responsible use of the countryside, and no one can assume that responsible usage will just happen. It will not just happen. People must be educated, and that takes rather a long time.

I hope that my comments have not been so brief that you will forget everything that I have said; I hope that the opposite will be the case. Having worked in forestry for 30 years, I know that it has been extremely difficult to encourage people to plant trees. It is a slow process, and we must keep working extremely hard at it. Evidence that the Forest Service can provide you with shows that, in the past 10 years, planting levels have reduced by between 50% and 60%.

My view is based on only 30 years of experience — I hope that other folk will have more experience. In my opinion, the Forestry Bill simply will not encourage people to plant; rather it will put more obstacles in their way. We in the private sector are more than happy to work with the Forest Service, if given the opportunity to do so. We are rarely given that opportunity. We want to work together, but the Forestry Bill keeps the balance of power firmly with the Department. Crown exemption has increased vastly. I thought that almost all Departments were getting rid of Crown exemption, but that is not the case with this Bill.

The evidence is that fewer acres and hectares have been planted. How will the doubling of woodland cover in Northern Ireland ever be achieved in the next 40 to 50 years? Sadly, the Bill will not help to achieve that goal. Every time we ask where the evidence is in the various areas of concern, we find that there is none. I asked for the evidence that there are issues around timber lorry access, but none is available. Having said that, I accept that in certain areas, particularly in Fermanagh and Tyrone, the rights of access into small areas of land that were subsequently

planted with trees are not fit for road construction for timber lorries. I can accept that, but the Bill widens the powers to include wind farms and any other use that the Department may specify.

The private sector wants to help the Committee and the Forest Service to achieve the doubling of woodland in Northern Ireland, which we all want. Sadly, that will not happen as a result of the Forestry Bill.

The Deputy Chairperson:

Thank you, John, for outlining your depressing position on the Bill. You mentioned the practical outworkings of access rights to forestry. I assume that the Bill could include a measure on zoning, particularly in areas where there are shooting rights. Public access cannot apply in such areas. You will have heard us raise that issue with Sport Northern Ireland. You are saying that that organisation's theory on the matter does not really work because people will not put up signs to say that they are shooting.

Mr Hetherington:

I will answer your question in a slightly different way. To my mind, there is virtually no logic in the Forest Service trying to run itself as a company and producing commercial timber. In almost all other regions of Ireland and GB, the state forest organisation has split into a commercial side, which, in some instances, has been sold off, and public recreation forest areas.

It is common sense that the Forest Service does not own all the sporting, shooting or fishing rights in Northern Ireland, and it is common sense to have zones for use for horse-riding, walking and so on. It is sensible and natural for consultation to take place with all interest groups. That ought to happen already under the UK woodland assurance standard. I am not aware that it has ever happened, but it makes sense. Forests have multiple uses, of which shooting is one.

I have not reached a conclusion on whether forests should use signage to advertise the fact that shooting is taking place. Unfortunately, as has happened across the water, the anti-shooting organisations will target individuals who undertake shooting. I am unsure whether it is a good idea to highlight that. Even during the foot-and-mouth outbreak, the public continued to use public areas and ignored signs that told them to stay away. I can give only my thoughts on the matter. Woodland has many uses, including shooting.

The Deputy Chairperson:

You mentioned the management plan. Is it possible to apply for a felling licence without having to produce a complicated management plan? I am thinking about how to simplify the matter, because people do not want to produce costly management plans.

Mr Hetherington:

In England, Scotland and Wales, people apply for felling licences, and there are some discussions about what they will replant with. However, there is no requirement for a management plan to be in place before the felling-licence application is considered. I do not understand why a management plan should be a condition of a felling-licence application.

The Deputy Chairperson:

We will now take questions from members, and I ask members to be as brief as possible.

Dr W McCrea:

With the greatest of respect, Deputy Chairperson, I did not find Mr Hetherington's position depressing; it represents a dose of realism rather than lights in one's eyes. I am concerned. We are preparing a Bill that has important implications for the future, yet we have been told that, in order to get the Bill right, consultation should have taken place with various agencies before anything was put on paper. We should ask the Department why there has not been proper consultation.

Will the Bill give the Department the right to authorise shooting rights on private land even though it has no rights on that land?

Mr Hetherington:

Yes.

Dr W McCrea:

They are taking the rights. Such a proposal will extend the Department's power dramatically.

Mr Hetherington:

That is the case if the Department perceives there to be a risk to a state-owned or privately owned planted area.

Dr W McCrea:

Therefore, it is about the Department's perception of the situation. Does the Department make the judgement call without consultation?

Mr Hetherington:

It does not say that. It simply says that in order to protect individuals who undertake deer control, be they state employees or private contractors, they should be exempt from the sections of the Wildlife (Northern Ireland) Order 1985, or any other sections, that would leave them open to prosecution.

Dr W McCrea:

I take the Chairperson's direction that we should be brief. However, we will have to return to the issue. A couple of questions will not get to the bottom of it. It is very worrying.

The Deputy Chairperson:

I assume that we will come to that when we carry out our line-by-line scrutiny with the Department.

Dr W McCrea:

Here is the problem: we will have departmental officials before us at that point, but we will not have the likes of John Hetherington before us to challenge what the officials say. We will have the departmental official giving his or her gobbledegook or whatever he or she wants to tell us. However, in the past, we have brought departmental officials and those who hold a very different view face to face across the table. We need to get to the bottom of this matter now, because once a Bill is passed, that is it; everyone will have to stick to it rigidly.

The Deputy Chairperson:

Sorry to interrupt, but I must ask that all mobiles be switched off, please.

Dr McCrea, when we come to the line-by-line scrutiny of the Bill, we will put to departmental officials any questions that the various organisations with an interest in the Bill have asked. We will then go back to those organisations and ask them for an assessment of the Department's answers.

The Committee Clerk:

Following a meeting, the Committee support team normally forwards the comments made by the various witnesses to the Department for responses on specific questions. We will then provide Members with an updated master copy of the clauses, which will show the various comments from the Department.

Dr W McCrea:

The general duty in the Bill is to promote forestry. Do you believe that a Bill that provides for that general duty will produce the goods?

Mr Hetherington:

No.

Mr W Clarke:

Thank you for your presentation. We spoke about landlocked forests, and there are a number of them. The Department said that it needed powers of compulsory purchase to buy the verges in order to widen the roads for access purposes. I understand your point: you asked why we have the forests there in the first place. However, if we want to harvest and replant, we may need a power of compulsory purchase. Do you see any alternative to it?

Do you wish to see a master plan for publicly owned forests that would allow all the stakeholders to come together and manage the forest? Do we need to say that in the Bill?

Mr Hetherington:

You asked about access to forests, and I can give an example from personal experience. Six months ago, I purchased a woodland in Scotland that has some scattered forestry blocks. There is no access to one of those blocks. I will have to go to see the neighbouring farmer and negotiate with him. It comes down to what is fair and reasonable and what is for the public good. I see instances where it is difficult to argue against giving the Department powers of compulsory purchase for access to release timber reserve. However, that is not what it says in the Bill. The Department uses access to timber reserve as only one example. My point is that the powers extended to the Department need to be seriously narrowed down.

I have worked for the Forest Service. It has a dominant position in Northern Ireland, and my view — others will have their view — is that there has been little consultation with the private sector historically. The Bill continues along that vein. Under the UK woodland assurance standard, there should be more consultation with the stakeholders of specific forests. However, I readily recognise that having huge committees and meetings would mean that nothing would get done.

Forests will be used for many more things, and the concern is always the responsible use of woodland. No one has an issue with that, but the public does not understand what responsible use is. That is the nub of the problem. Sadly, I have experienced that regularly. Woodlands have been vandalised and set on fire. We in the private sector have to put up with that. The state Forest Service has a dominant position. The private sector wants a level playing field, yet it has never had one. The Bill simply increases the Department's power.

Mr Shannon:

I declare an interest, because I bought some trees from your organisation, which I planted on my farm. I have two issues: shooting rights, which Dr McCrea touched on, and pedestrian access, which Willie Clarke touched on. Do you think that Forest Service land can be managed in such a way as to ensure that all or most sporting activities can take place on separate blocks of land? Is that the way you see it?

Mr Hetherington:

When I worked for the state Forest Service, I was the forest manager at Tollymore forest park and I managed the deer in that area. I successfully managed the deer without creating any problems in the year that I worked there. I had to recognise that the public were in the forest from quite early in the morning until after dark, so I had to be out at first light and had roughly one hour in which to control the deer. I saw the negative press reaction when Randalstown forest was closed for deer control. If lessons are to be learned from Randalstown forest, or more recently, Seskinore forest, the media and the public must be educated that deer control or culling has to happen for the well-being of the forest.

Zoning could work in large forests, but at Tollymore I had to shoot some deer at campsites. I am currently employed to control deer on some golf courses, and the course must be closed when I am doing so. Deer control could be likened to the felling of trees; both have the potential to hurt

someone. If a tree falls on you, it will kill you. If someone shoots you, it will kill you. Therefore, we must educate the public that certain sections of the forest have to be closed off at certain times of the year. People cannot be stopped from walking in the forests if they are determined to do so. However, as wild animals, deer will sense if a member of the public is walking about. The risk is small, but it can be minimised by managing it.

Mr Shannon:

The Minister announced a fortnight ago that the grant for planting hardwood trees will be increased. Will you be glad to see that in order to encourage the planting of hardwood trees?

Mr Hetherington:

Yes, absolutely, although it is not specifically for hardwoods; it is for conifers as well. However, yet again, the problem will be the delivery. Where is the bottleneck? The grant aid is one of the bottlenecks, so the increase of 30% is welcome. However, one of the bottlenecks is caused by people having to create a farm business and by the complete failure of the Forest Service to agree in Brussels the definitions of “farmers” and “non-farmers” for the annual payment part of the forest grant. We asked the question, and recently there was an announcement recently from one of the directors of Forest Service that it had completely failed to convince Brussels to change the wording of those definitions. We are only three years into the five-year plan, and the Forest Service has failed.

The Deputy Chairperson:

Was that announcement made publicly, or was it only made to your organisation?

Mr Hetherington:

We asked the question and gave the Department the opportunity to respond through a newspaper article. The article was published approximately four weeks ago. In the article, the Forest Service admitted that, both formally and informally, it had failed to make any headway and that it was back to square one.

The Deputy Chairperson:

That is a crucial element in the immediate future of forestry development.

Mr Savage:

Sorry I missed the first part of your presentation. I congratulate you on the effort that you have made in your response to the Forestry Bill.

You said that you were looking for a level playing field. I speak as a farmer who has been involved with the land for a long time; we have never had a level playing field. Anyone who gets involved with any of the Departments has to wait a long time before they get the same perks as the Departments have.

You said that the last forestry Bill was passed 50 years ago. How often do you think that there should be a new forestry Bill to bring in people like yourselves? Listening to you and the people before you, I have learnt a lot about things that need to be done but are not being done. The Committee will be asked to make big decisions on the way forward for forestry. You have covered quite a lot, but what are the most important things that the Committee should be doing?

Mr Hetherington:

That is a big question. Between 10 and 15 years ago, an international consultancy company, Jaakko Pöyry Consulting, produced a report for the Forest Service which has never been released in public. At the pre-report meeting, there was a graph on international costs of forest management. Which of the countries that it looked at was top of the tree in its cost for forest management? The Forest Service in Northern Ireland. Why should taxpayers fund the inefficient Forest Service? Why not sell off the commercial woodland and concentrate on providing public facilities in a much smaller estate?

The Forestry Act (Northern Ireland) 1953 was supposed to be amended when the review started in 2000. That has been going on for nine years now. Halfway through the process of amending the 1953 Act, the Department decided to start again, because it thought that the old Act was past its sell-by date and should be scrapped. I disagree with that.

Modern life is moving much more quickly than it was 50 years ago. Consider the analogy of a crop of commercial conifer trees: 50 years ago the standard rotation was 50 years, whereas it is now 30 years. Things are moving all the time. We should be seriously looking at the legislation that governs forestry every 20 to 25 years.

European legislation has also come in, but very few folk understand it. We cannot change land use without permission; that has been on the statute books since 2000. Is there any need to have felling licences given that 70% of the woodland estate is state owned and that the people who plant trees on private woodland are very committed foresters? The industry is extremely well regulated, because it must follow Forest Service's grant-aid guidelines.

I fully recognise that felling licences are not an issue per se, but they will create yet another raft of regulation that will act as a further discouragement to foresters. Surely we should be focusing on encouraging the expansion of woodland, not discouraging it. I recognise that other concerned groups will want the felling licences included in the legislation. It is a hard one to call.

I have worked in the private sector for 23 years and have made a living from promoting the expansion of woodland in Northern Ireland. However, the sad reality is that we could not make a living from establishing new woodland in Northern Ireland 15 years ago. Instead, we had to start operating in Southern Ireland and Scotland. Twenty years ago, almost 1,000 hectares of new woodland was created in Northern Ireland. Ten years ago, approximately 650 hectares of new woodland was created. What happened last year? Only 260 hectares of new woodland was created. There has been a long-term decline in new woodland creation. How do people think that the Forestry Bill will change that? I have been trying to make a living from woodland establishment, which is darn hard work, and the Bill does not encourage that.

The Deputy Chairperson:

I think that you are saying that Forest Service should get rid of commercial forestry — leave that to the private industry — and keep woodland for recreational use.

Mr Irwin:

You raised a number of concerns about the Bill. Members of the Committee share those concerns, one of which is the compulsory acquisition of land. You said that your company bought woodland in Scotland and that it would have to negotiate access with the landowner. Is it possible to put something in place whereby there could be compulsory temporary access instead of the acquisition of land? That would be more realistic in that type of situation.

Mr Hetherington:

We did that six months ago. Network Rail in Scotland used our woodland to upgrade an old

railway track. It has the compulsory power to do that, but after six months it had to hand the land back to us in the same state that it got it.

Mr Irwin:

That is a completely different situation from compulsory acquisition.

Mr Hetherington:

Yes.

The Deputy Chairperson:

Thank you very much for that interesting presentation. Obviously, we will be going back to the Department with a number of issues.

(The Chairperson [Mr Paisley Jnr] in the Chair)

The Chairperson (Mr Paisley Jnr):

Thank you, Tom.

The next item on the agenda is a presentation by the British Association for Shooting and Conservation (BASC). With us is Roger Pollen, the country director of the BASC. You are very welcome, Roger.

Mr Roger Pollen (British Association for Shooting and Conservation):

Thank you, Mr Chairman. I have asked John to sit with me today. He is a member of the Northern Ireland advisory committee for BASC and there may be a couple of points where we overlap and where it would be useful to bring in his expertise.

Thank you for the opportunity to give evidence in the course of the Committee Stage of the Bill. It is a little bit like being the last person to speak at a wedding; everybody has come out with all the good jokes and interesting statistics and I am trying to Hoover up the bits at the end after everyone has moved on. I have given members an advance copy of my notes and I will expand on them slightly to put things in context. I am conscious of the time, so I will try to do that fairly quickly. I will set the scene and then we can take the discussion from there.

The British Association for Shooting and Conservation is the UK's largest representative body for sporting shooting, with a membership of around 130,000 people. I am the BASC's director for Northern Ireland.

We have significant reservations about the Bill. It appears to have evolved through at least two consultations, and Dr McCrea mentioned the consultation issue. The first of those consultations, as far as I am aware, was 'Options for Forestry' in 2005, and the second was a strategy to develop the recreational and social use of Forest Service forests in 2009. That consultation closed in February. I suggest that those consultations dipped a toe in the water, listened to where the objections were coming from and perhaps made a few amendments. However, they do not seem to have altered the course of Forest Service's thinking. That might, in some ways, explain why the Bill, having been out to consultation, has come forward in the form that it has.

BASC responded to both consultations, and, although there were some elements in the Bill to commend, there was a clear underlying thrust to set a very high bid for powers that would allow for almost unfettered expansion of state-owned forestry. For example, powers were sought to allow for road building and for compulsory purchase of land and sporting rights, and there were proposed new requirements for woodland owners to abide by regulations that would not be applied to Forest Service itself. BASC argued its case very strongly in those initial consultations, but, although we welcome the fact that powers for compulsory purchase of sporting rights are not sought in the Bill, comments by senior Forest Service staff earlier this summer that they have dropped the proposals "for the time being" leave concerns.

It is clear that the main thrust is still to acquire new powers for Forest Service. The Bill does not appear to give due consideration to the other options that exist for forestry in Northern Ireland, either now or in the future. That is unfortunate for the future of forestry and for the wider environment. To echo what Mr Hetherington said, we believe that many of the proposed new powers are largely unnecessary, because the two main pillars of regulation already exist, and offer great scope for proper forest management, together with numerous other minor powers and regulations that lend support.

Other issues raised in the Bill are simply unacceptable to BASC and its membership, specifically in the area of the proposed powers to create statutory rights for Forest Service staff to

go onto private land adjacent to all forestry — not simply that belonging to Forest Service, but all forestry — to pursue deer and other species of quarry. That is a power that was not available in the 1953 Act, under which the destruction of wild animals was allowed, but not the destruction of deer.

It is worth pausing to examine the implications of this. Those powers of access would convey many of the effects of compulsory purchase without actual recourse to purchase. For example, clause 8 has a vague description of a wild animal as any animal that is:

“living wild and is likely to damage trees”.

Effectively, that would allow Forest Service to usurp traditional sporting rights in areas where it is the occupier but the rights are reserved.

What precedent is there for a farmer, in this case growing a crop of trees, to call in government staff to control predators on a neighbour’s ground, and not only get no bill for that, but have the bill for the government providing that service given to the neighbour? That is unprecedented in agriculture, yet that is exactly what the Bill proposes.

Powers are also sought on felling licences and management plans, from which the Forest Service would be exempt. That is unhelpful for land management, as well as shooting and conservation management. It is an abuse of power and creates unnecessary bureaucracy. Northern Ireland is notable in Europe for the extent of forestry in public ownership. Many of the measures proposed in the Bill seem designed to preserve that imbalance rather than correct it. The powers that are sought are without check or balance, which is a cause for grave concern.

I want to highlight about half a dozen key points in the Bill. The first is that the Forest Service wants powers for the compulsory purchase of land that is of strategic importance. Many private landowners might wish to have similar powers for laudable purposes, but they will never get them. Is it right that the state should be able to have such supremacy? The example cited in the Bill’s explanatory and financial memorandum is that of gaining access to landlocked public forestry. Is the main or only concern that Forest Service can address that by seeking powers of compulsory purchase, rather than compulsory temporary access?

Forest Service has the respectable ambition of wanting to double forest cover in Northern Ireland. However, was that agreed after consultation, engagement and dialogue with the other

landowners in the Province? The population of the world is predicted to expand by nearly 50% over the next 40 years. That is another three billion people. Has consideration been given to the effects of the loss of productive agricultural capacity that the removal of 6% of the land mass of Northern Ireland from production would deliver, or the impact on annual revenues to the country as opposed to long-term capital growth?

The Committee may wonder why we are posing a question that would potentially frustrate the establishment of more woodland. We are simply highlighting the fact that change of land use on such a large scale would undoubtedly have significant impacts on many aspects of our sport. Therefore, we are keen to ensure that any such change is carefully planned, considered and developed in full knowledge of all its impacts, and in consultation with all who may be affected. Forestry practice over the past 50 years is hardly hailed as having stood the test of time and taken us in an ideal direction. When making legislation, therefore, we must make sure than any assumptions are properly challenged.

I want to flesh out the issue of allowing forest rangers to go onto private land adjacent to all forestry. Apparently, Forest Service staff, and their other arrangements, cannot control the deer sufficiently in their own forestry. Much worse, the number of foxes there is widely acknowledged as being at plague levels, with massive negative impacts on many of the Northern Ireland biodiversity action plan targets for species such as red grouse, curlew and Irish hare.

In the Bill, Forest Service has an ambition to double to 12% the area covered by forest, with the prospect of government staff being empowered to go onto adjacent land for a distance of up to half a kilometre. That would mean armed rangers covering an enormous proportion of Northern Ireland, possibly up to a quarter of the entire Province. The case for going onto private land is simply not made. It is against everything that land ownership is about, and it has public safety implications as well as legal implications, including potential armed trespass. How many of your constituents would be happy that you are considering, or being asked to move, legislation that would allow people to come onto their land with no ability to resist that request, armed with full bore rifles to control animals on that land, and then charge you for having done so? I would not have thought that that would be popular with any sector of the rural population.

Another bizarre aspect of the Bill is that Forest Service wants its staff to be exempt from the provisions of the Wildlife (Northern Ireland) Order 1985, or its successor legislation, and to be

exempt from the game Acts so as to be able to shoot deer, day or night, 365 days a year, without legal control on appropriate calibres or weights of bullet. That proposal has appalling implications for deer welfare, principally orphan fawns and wounding.

The proposals seek exemption from wildlife legislation that has been developed through wide consultation and an understanding of deer ecology. There is no justification for such a sweeping exemption for one small group of government employees from the laws that govern the rest of the population. Indeed, the Department of the Environment is currently proposing, in the Wildlife and Natural Environment Bill, to scrap the right to Crown immunity for its staff. It is bizarre in the extreme, therefore, that the Department of Agriculture is actively seeking to introduce Crown immunity, which it does not currently enjoy. Another effect of such Crown immunity could be the ability to shoot badgers, red squirrels or other protected animals if circumstances demanded, again with no check or balance.

Dr McCrea's suggested a private session where Forest Service would come in and give evidence. It is easy to say "that would not happen, our management controls would not allow it." However, we are making legislation that might last for half a century. Someone may say that .243 calibre rifle bullets are too expensive and that we will just use .222 which are a tenth of the price. That would be an economic decision, but the wounding issues for deer would be immense. There would be no check or balance to say that that would not happen, because Forest Service would have the powers taken unto itself through this legislation to make that ruling. At that point, it would be beyond challenge.

We suggest that the exemption would give Forest Service staff the power to act in grossly unacceptable ways, yet be immune from any form of control. The creation of such a lack of independent oversight would be a travesty and is entirely unacceptable. To go back to John Hetherington's point, no case has been made for it. I do not believe that any case could be made to sustain this argument of being exempt from the laws that affect everyone else. Interestingly, we are also advised that the Department of the Environment has not been officially consulted on the proposal for rangers to be exempt from its legislation. That ought to raise some interesting questions.

The Forest Service wants to be able to cull deer that might cause damage, not just those that are actively causing damage. We believe that that is entirely unacceptable as it is so subjective.

All deer might cause damage. This would put the Forest Service beyond control and completely in charge of policies that could potentially see the eradication of the majority of the deer population without check or balance. It is also an opportunity to deprive sporting-rights owners without discussion, agreement or compensation.

It is worth highlighting a piece of legislation that is going through the Department of the Environment (DOE) at the moment. That Department has introduced checks and balances in its new draft legislation on deer. It has made provision for deer culling out of season and at night, subject to application for a licence. Before granting a licence the Department will be required to be satisfied about a number of matters in order to ensure that there is no other satisfactory solution and that the reasons for the application for licence are given due consideration. In the case of preventing damage to property — which presumably is the Forest Service’s interest — property on the land has to have been seriously damaged in the year preceding the licence application. It is not good enough to say that a deer might damage trees: there has to be a track record of deer having caused damage, and this is a proportionate response to it under licence. In other words, where deer might cause damage, there is a far higher requirement from the DOE than in this Bill. The DOE has got it right and has provided checks and balances.

The Forest Service wants to be able to recover the costs of such deer culling from the owners of adjacent private land. Forest Service currently accepts no responsibility for road traffic accidents caused by wild deer on the basis that they are wild. That is correct in law. It also accepts no responsibility for losses incurred by sheep farmers from foxes that inhabit their forestry and stray out onto farmland, yet it wants the reverse of this, in its own interest, to cull wild animals on private ground adjacent to any publicly or privately owned woodland, and it expects the private landowner or the occupier to pay.

Interestingly, there is no definition or clarity as to what is meant by “occupier”. In the Firearms (Northern Ireland) Order 2004, it is specified that the term “occupier” is not defined. That is absolutely germane to the issue. As an occupier of a piece of ground, I can lend a shotgun to someone who is on that piece of ground with me, but the 2004 Order does not define what an “occupier” is. Forest Service is creating a provision to charge an occupier for a service it carries out, but it does not define who that is. Who is the occupier? It is the person who has the conacre rights or the sporting rights, or the person who has hired it for putting on a game fair? Who is the occupier of the ground on which the Forest Service provides this supposed service? The

provision lacks detail and is being driven from the wrong end.

It is also worth noticing the inconsistencies in the Bill. The treatment of animals is different to the treatment of invasive plants. With plants, the Forest Service has simply sought the right to control invasive species, which is probably not unreasonable, but with deer, it wants to have the right to control and to charge for undertaking that control. Why is there that disparity?

We have had conversations with Forest Service to try to get access for recreational deer stalking in the forest estate. The Forest Service realises the value of sporting shooting, but it consistently resists helping to unlock that value from stalking, unlike in Scotland, England or Wales. That is not only an opportunity lost, but a major restriction on legitimate sporting shooting. Taken in conjunction with some of the other powers sought in the Bill, and some that were proposed earlier but have now been discarded, BASC has strong reservations about the intentions of the Forest Service and the proposal to give it such massive powers with so few checks and balances.

I believe that that gives a flavour of the issues that cause us greatest concern in the Bill as it stands. In many ways, the issues that cause concern arise from the fact that the principal forest operator is also the regulator, not only for private growers but for itself. With a major percentage of the woodlands and forest in Northern Ireland in its ownership, the Forest Service is not only the largest player by a massive margin, but, through the provisions of the Bill, will have the power to decide how everyone else — commercial competitors, alternative users such as stalkers, and unrelated landowners — is regulated while being exempt itself.

The BASC, along with some other organisations such as the Countryside Alliance and Game Conservancy Trust, commissioned a report a couple of years ago from Public and Corporate Economic Consultants which examined the economic value of shooting to the UK economy and broke it down into the various constituent parts. It identified over £10 million worth of conservation work that is undertaken annually by the shooting community in Northern Ireland. That is a massive amount.

The report also identified over 2,100 jobs sustained in shooting, and over £45 million of value to the economy. It is a huge industry that is not formally recognised. It is of major benefit in helping the Government to meet its biodiversity targets, having that amount of voluntary input.

Some of the provisions in the Bill, such as the requirement for felling licences for small trees on small pieces of ground, whether or not they have ever received public money to assist with their establishment, seem onerous and are likely to impose an unwelcome burden on a large number of people who contribute to the welfare of the countryside.

The more I have reflected, the more I feel that the process has started in the wrong place, and that the first action should be to divide the regulatory function, which affects all woodland operators whether public or private, from the delivery function. If that were to be done, or if it had been done, and the issue was about the regulation of forestry, I doubt that we would have had many issues of concern, if any. I genuinely doubt whether a regulator would seek the powers that are being sought here. Such a division of roles would have the effect of giving much greater confidence in the actions and motives of the Forest Service as a regulator. That would leave you free to privatise the forests and woodlands to release massive sums to the public purse and to rebalance the public/private operation of the woodland in the Province.

The Chairperson:

Thank you. You made two points about the DOE exemption and consultation and the “occupier” definition. We will put those issues to the Department and its Bill team.

I was going to ask you what you would want to put in the Bill had you been given a blank sheet of paper. Your presentation makes it quite clear that there are a lot of things that you would like to take out of the Bill to make it work. I appreciate the way that you have presented your evidence today in order to clarify the points that you made in your written submission.

Mr Elliott:

When the representatives from Sport NI were here, I asked whether they recognised shooting as a sport, and they said that they did not. Does that give you any concern?

Mr Pollen:

I was interested in your question and their answer. I was also interested in the way that they repositioned afterwards when they felt that there was a different mood around the table. They have grant-aided some shooting sports, but they clearly draw a distinction between Olympic and target shooting, which they have grant-aided with around £86,000 over the past year or so, and recreational sporting shooting. I was surprised at that, given their objective of getting people out

into the countryside.

The Chairperson:

Do you think that they get it?

Mr Pollen:

No, I was not convinced that they did. In fact, they are now on top of my list to call, to see if we can help them to get it. *[Laughter.]*

I am sorry, that was not meant to be as facetious as it sounded. I think that they are genuinely doing a great job in lots of sectors. They recognise sporting shooting for Olympic standards, but this is a massive area of recreational activity that they seem to be unaware of.

The Chairperson:

Do they understand how much money this spins in the Scottish and borders economy on the mainland?

Mr Pollen:

Interestingly, a quarter of all shooters in England, which is a massive number, go to Scotland for recreational shooting, whereas only 1% come to Northern Ireland. There is a one-way flow of money going out of Northern Ireland for shooting opportunities on mainland GB and none coming back this way. That seems to be a big opportunity missed. The Forest Service has been nimble in avoiding any opportunity to try and engage with it on that.

The BASC runs stalking schemes with the Forestry Commission in Scotland and England. We provide deer management in an area and a ranger to do the guiding, and we bring in lots of members to go deer stalking. That is done on behalf of the Forestry Commission to provide its deer management and culling targets and to provide recreational opportunities for our members. One of the local schemes in England runs right down into a city.

The Chairperson:

Is it ignorance or prejudice?

Mr Pollen:

The gentleman from Sport NI touched on the point that there is probably a concern among its ranks in that members do not want to leave themselves open to any form of litigation and, therefore, they are playing it safe all the time. The Forest Service estate offers sporting leases, but they are for shotguns only. However, rather than relying on the DOE's quarry species lists, the Forest Service has developed its own. It has restricted the quarry species to take account of the red data book lists. Therefore, it cannot ever be held to have done anything that could have had a negative conservation impact. Instead of relying on the DOE's assessment, the Forest Service has made its own assessment. There is a certain amount of back-covering going on, probably allied to some prejudice and some vested interests.

Mr Elliott:

Is the DOE legislation that you referred to the Wildlife and Natural Environment Bill?

Mr Pollen:

Yes, it is.

Mr Shannon:

Good to see you, Roger. I register an interest as a member of BASC.

The Chairperson:

We know.

Mr Shannon:

It may go without saying, but I have to do it for the record. Roger, your presentation was excellent, and it has given us a lot of good ideas about how to get the Bill right. As John said, it is all about getting the legislation right now and not waiting until problems arise in 15 years' time.

You talked about recreational shooting. I have travelled to Scotland to shoot because it has potential and is probably more attractive. Should the Department put something in the Forestry Bill to encourage recreational shooting?

Mr Pollen:

That would be a big step forward. The value of the sport is established already, but there is a lot more

potential value. One of the best things that Northern Ireland could do would be to set up a really good international-standard shooting complex, and maybe the Forest Service estate is the best place to do that. That would allow the Forest Service to engage actively with shooting. It would be on a slightly different basis from what we would ideally like to see, but there is an opportunity there.

However, the Forest Service has been effective in ignoring any references to sporting shooting, and it comes back to the business of signage. By ignoring the issue, it does not put its head above the parapet, and that allows the issue to be negated constantly and chipped away at. Our business is to put shooting in the public eye, and that is why we run a lot of game promotion nights. Shooting is a part of the countryside and a part of sustainable living. For government bodies and Departments to shy away from that, to give shooting scant regard and to keep it hidden is an abrogation of their duty.

Mr John Hetherington (British Association for Shooting and Conservation):

If I may add to that, the Forest Service recreational review ignored sporting shooting: it was not mentioned.

Mr Pollen:

Nevertheless, I think that at First Reading of the Bill the Minister gave sporting shooting as her second illustration of forest uses.

Mr Shannon:

Roger made the valid point about the firearms legislation. We must not introduce legislation that will say one thing when the firearms legislation says something completely different. We must get it together and ensure that everything is legal.

The Chairperson:

That is why we will seek a clear definition of that.

Mr Shannon:

How is it that DOE seems to have an idea but DARD does not?

Mr Pollen:

DOE is at risk of treading into murky territory, and I have raised that matter with officials. In the

Wildlife and Natural Environment Bill, the DOE is proposing that there should be a legal requirement to notify it of the change of occupier of an area of special scientific interest (ASSI). That means that the DOE will have to establish a register of who the occupiers of ASSIs are. It has a high target for designating parts of Northern Ireland as ASSIs, so there will be an awful lot of pieces. The DOE is proposing to take on the responsibility to keep a register of the occupiers of ASSIs.

However, I can see the whole thing being fraught with difficulties. People may be out shooting on an ASSI, which they are perfectly entitled to do, and they may engage with the police. Those people may say that they are shooting with the permission of the occupier. However, they may then go to the DOE to look at the register, which may not have been kept up to date or may have a different version of the occupier. Suddenly, those people may find that they have committed a firearms offence.

Therefore, the parallel in forestry is that if there is a proposal to establish a register to define who the occupier is, where will the register be kept? Will it be kept with Land Registry? How will it be kept? There are many unanswered questions, and they are a small base on which a big inverse pyramid will be built.

Mr Shannon:

My last question relates to the control of vermin. The Department of Agriculture and Rural Development will not control foxes. Should the Forestry Bill include an onus on the Department to be responsible for vermin control? It would result in an improvement in the numbers of red grouse — and you are the chairperson of the red grouse committee — curlew and hare.

Mr Pollen:

In the autumn, I chaired the first meeting of the red grouse species action plan delivery group. There were officials from DARD, DOE, Forest Service, environmental groups, and so on, around the table, and there was unanimous agreement that the biggest cause of the destruction of red grouse is foxes. A substantial amount of them were emanating from the forest and causing impacts. However, interestingly, when the sporting leases for the forestry estate were let, they specifically precluded bullet-firing weapons from use. Therefore, although shooting is permitted in forests, foxes cannot be controlled with rifles. That seems to be a major opportunity lost, and it is magnifying the problem. However, there is an opportunity to address that.

Mr Irwin:

Thank you for your presentation. You made a number of interesting points that I, as a farmer, have made in the past. However, I think that Forest Service is ambitious in its expectation that it will double the area of forest in Northern Ireland. John Hetherington might not want to hear that, but realistic targets need to be set, and I think that is totally unrealistic. You made the observation that people can shoot on other landowners' land and charge them for it. That also seems to be totally unrealistic. You made a number of valid points, and the Committee needs to look very closely at the Bill before it is passed.

Dr W McCrea:

Unlike Jim, I am not a member of the shooting fraternity, so I might be more objective in asking some of these questions. You have identified a major problem, because there is a major shift and extension in power that the Department seems to be grabbing for itself. Am I right in saying that there could be major implications if it were to receive that power?

Mr Pollen:

The short answer is yes. When we saw the original consultation document on options for forestry, we were apoplectic about the prospect of the option for compulsory purchase of sporting rights. I raised the issue at a number of meetings with Forest Service ground staff, and one of them came up to me at a meeting and told me not to worry about it, as Forest Service had made the proposal because there was one particular forest where it does not own the sporting rights, and it cannot reach agreement with the sporting rights owner. That was really why that option had been included.

That was meant to give us comfort, but it did quite the contrary. If legislation is being created because a deal cannot be reached with one individual, that is a serious abuse of power. We were supposed to be comforted by the fact that the power would not be widely abused. However, we all know that when powers are created and people are given responsibility for them, it is no longer up to us how they exercise those powers.

Dr W McCrea:

That is not included in the Bill.

Mr Pollen:

I had a meeting with officials in August, and they said that they had withdrawn it for the time being. In other words, it was a parked issue, rather than a dead issue. In any case, in many ways it has been superseded by proposals for being able to go on to private land adjacent to forestry. It is not quite the same as being able to go into that forestry, but it is not a bad compromise at no cost — you do not have to purchase the rights to do it.

Dr W McCrea:

Do you feel that the Government are trying to act as gamekeeper and poacher at the same time?

Mr Pollen:

The Chairman asked what I would do with a blank piece of paper. I do not believe that I would write that Bill. I would write a Bill that addresses the needs, not of the Forest Service, but of forestry in Northern Ireland.

Dr W McCrea:

Are you suggesting that the regulator should be able, in what it does and in the example that it sets, to stand back and be more independent, rather than be an active participant?

Mr Pollen:

Much of our concern stems from the total overlap of interests in the body that is known as the Forest Service. Regulatory interests and production and management interests completely overlap. In Scotland, there is notional separation of those interests, although it is not total. I believe that John would echo that, at least, different people are in charge of different elements and that there is, therefore, a degree of being able to deal with either the regulator or the manager. Here, that separation does not apply.

Mr Savage:

Have you a base or a depot in Northern Ireland?

Mr Pollen:

Yes. We have offices in Lisburn.

Mr Savage:

Obviously, you see much potential in the forestry business in Northern Ireland. Having listened to you today, it seems to me that hard and fast decisions must be taken in order for the Forest Service to develop in the twenty-first century. It is clear from your comments that you do not believe that we are going the right way about it.

Mr Pollen:

That is a fair comment. To be clear, however, I do not believe that it is you who is not going the right way about it: the problem is that the legislation has been drafted and developed by people who have a direct interest in it and who will be most affected by it.

The Chairperson:

We will try to fulfil our expectation that we can make the Bill a better Bill and meet the needs that have been identified by a number of people who have presented oral evidence to us. That is why the Committee is a useful forum.

That being the end of questions, I ask you to step down. Thank you for your attendance and presentation.