



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Strangford Lough Fishing Exclusion Zones:
DARD Briefing

9 October 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Thomas Buchanan
Mrs Jo-Anne Dobson
Mr William Irwin
Mr Kieran McCarthy
Mr Robin Swann

Witnesses:

Mr Matt Service	Agri-Food and Biosciences Institute
Mr Paddy Campbell	Department of Agriculture and Rural Development
Mr Mark McCaughan	Department of Agriculture and Rural Development

The Chairperson: I welcome Mark McCaughan, the chief fisheries officer; Matt Service, principal scientific officer in the Agri-Food and Biosciences Institute (AFBI); and Paddy Campbell, deputy principal.

Mr Mark McCaughan (Department of Agriculture and Rural Development): Thank you, Chairman.

The Chairperson: Do you have you a presentation for us?

I remind members about our quorum. We have five members, and this is an SL1, so we will need to make decisions on it. Members should be mindful of that if they are coming in and out.

Mark, are you leading off?

Mr McCaughan: I am not sure how we left this in the spring. A lot has happened since then, so I will recap. We have been trying to restore modiolus to Strangford lough since 2008. The Department of the Environment (DOE) and the Department of Agriculture and Rural Development (DARD) engaged in a modiolus restoration plan in 2008. In 2011, Queen's University was resourced to carry out the work. Queen's submitted a report at the end of that work, in May 2011, and made a broad recommendation, as shown in the chart, for a non-disturbance zone across a wide portion of Strangford lough at a depth of 10 metres and deeper. Prior to that, with data emerging in 2011, the Department had introduced two areas of non-disturbance, from which pot-fishing would be excluded.

We then approached the Commission at a package meeting in January this year with a proposal to extend the area to cover a larger part in the central portion of the lough where some modiolus — some

of those horse mussels — remained and at Green Island passage to the north, which was a previous modiolus habitat.

The Commission was very assertive with us and told us that, in its view, this was completely inadequate. It had received a formal complaint from the Ulster Wildlife Trust that initiated infraction proceedings, and it was minded to list it for an infringement. In essence, the Commission told us to go away and prepare something that was more adequate. To that end, we explained matters to the Committee. We also had stakeholder engagement with fishermen, and with the complainant, the Ulster Wildlife Trust, which is the appropriate process in a pilot case, and we have come forward with this new proposal for a prohibition on pot-fishing and the establishment of a non-disturbance zone across the entire area recommended by Queen's and in Green Island passage, slightly to the north, which, we are aware, does not have fishing interests.

Paddy Campbell will run through the processes involved.

Mr Paddy Campbell (Department of Agriculture and Rural Development): As Mark said, in order to address the concerns expressed to us by the Commission, and to satisfy the complaint, we have come up with the revised restoration plan, of which the regulations in front of you are a part.

We are now proposing to close two zones. The first zone is zone 1, and Mark illustrated that to you. You have a map that shows that large area. It is the area that was recommended in the modiolus restoration report of June last year. As Mark said, the Commission indicated that that is the minimum that it expects to be protected. Zone 2 lies just to the north in an area called Green Island passage.

The regulations propose to ban all commercial sea fishing in these two zones at a depth greater than 10 metres, so fishermen can still fish in any areas that are marked on charts above 10 metres. In regulation 4 of the draft regulations, an exemption is provided for fishing by rod and line. That allows recreational fishing to continue in the area; we do not see that as having any impact on the features.

Green Island passage was chosen because it has no recent fishing activity, so there is no impact on fishing. It has also been surveyed extensively. Since 1997, it has been monitored for benthic fauna and for sediment contaminants, so it provides the longest dataset that we have of habitat in the lough. It has also been modelled and found to be suitable for modiolus restorations. For those two reasons, it has been considered to be worthy of protection as well as the larger area. It will be very useful to monitor whether there are any effects of restoration.

The Northern Ireland Environment Agency (NIEA) has written to the Ulster Wildlife Trust to give a breakdown of what actions the Departments propose. This has also been copied to the Department for Environment, Food and Rural Affairs, which is the reporting authority to the UK for infringement cases such as this. That has also been side copied to the Commission officials so that they are aware of what is being proposed.

As Mark said, we had some discussions about the impact of these proposals during the summer with representatives of Strangford Lough Fishermen's Association. A copy of the response to the proposals that we were going to make to the NIEA, which we wrote with to the Ulster Wildlife Trust, has also been made available to the fishermen. They are fully aware of what has been proposed. It is fair to say that the fishing industry is not happy with the fact that it will lose more fishing area. Unfortunately, this is what we have to do to try to avoid infraction, so we have very little room to manoeuvre on this. As Mark said, proposals for a smaller area were put to the Commission, but they were rejected.

I will talk about the next stages in the process, which are subject to your consideration today. The regulations are also cross-cutting. Offences are involved, so that involves the Department of Justice. They are cross-cutting with the actions of the DOE, so the regulations will go to the Executive for consideration after consideration by this Committee. Subject to those considerations, we intend to make the regulations as soon as possible thereafter.

The Chairperson: I have a couple of questions. I do not pretend to be any great expert in modiolus or the pot-fishing that takes place in Strangford lough. An article 6 assessment was done on the pot-fishing and aquaculture effects on the modiolus. Is that complete?

Mr Matt Service (Agri-Food and Biosciences Institute): Both documents on the assessment of aquaculture and pot-fishing have been completed and submitted to DARD and, indeed, the Ulster Wildlife Trust in the past month.

The Chairperson: If those were submitted to the Ulster Wildlife Trust, could they, and should they, not have been given to the fisheries organisations to comment on?

Mr Service: The Agri-Food and Biosciences Institute (AFBI) conducted assessments on behalf of DARD. We are acting, in this sense, as a contractor of DARD. However, my understanding is that the fisheries organisations have seen the pot-fishing article 6 assessment. Perhaps Mark can explain that.

Mr McCaughan: Nobody wants any of this, and people are finding issues of difficulty. There is a real problem here for the fishermen who are affected. The initial article 6 assessment by AFBI was provided in 2011, and fishermen have sight of that. Some adverse comments were made on it by the complainant, and we now have a suggestion whereby the complainant and AFBI are seeking to address issues of common interest and trying to broker an article 6 assessment that is acceptable to DARD and the complainant. Given our legal advice, we are not at liberty to share that process entirely with fishermen, but I think that we have been as open and honest as our legal advice lets us be. I received the latest draft of the article 6 assessment from AFBI in the past 48 hours, and that included comments from the Ulster Wildlife Trust. That will be with fishermen's organisations as quickly as I can make it available to them.

The Chairperson: You can understand where the build-up of resentment comes from, because those people have to hear bad news, although I do not think that any of us can suggest any other route for that. I know that there are reasons for that, in that this Committee and the Committee for the Environment have held closed sessions on the subject, so there was always a cloak of secrecy around the issues. We are now at the point at which an assessment has been done, and we are able to give that to the Ulster Wildlife Trust but not able to give it either to the pot fisheries or the people whose livelihood, in some cases, will be affected.

Mr McCaughan: The assessment on pot-fishing is with the pot fishermen, although I admit that it is with them very recently. Again, we have not had flexibility here. I am aware that we are vulnerable to the accusation that we are not playing evenly on either side, but this is part of a form of process under a pilot case arrangement, and we are not in control.

The Chairperson: Have we any costings or a budget for the revised restoration plan, and who pays for it? Is it DARD or DOE?

Mr McCaughan: The restoration plan has several elements to it. Again, that is with our Minister and has not yet been cleared. It will have certain resources provided by DARD and DOE independently. For example, we have given an undertaking to the Commission that we will provide a dedicated, full-time fisheries officer solely for Strangford lough to ensure that we can display that the regulations are being fully complied with.

We are doing that from existing resources. We are not getting an additional member of staff but are making an existing member of staff available to Strangford lough simply because it is absorbing an awful lot of effort at the moment. In addition, DOE will be contracting Queen's for a postdoctoral researcher to look at a translocation process to move modiolus into Strangford lough from outside and to take up an intervention in that way, and that would be for DOE to resource.

The Chairperson: Were there not restoration plans in the past that tried to protect the genetic purity of the modiolus in Strangford lough? Would introducing species from outside the lough not go some way to damaging that?

Mr Service: The restoration group, as Mark says, is discussing the option of moving the modiolus effectively from outside the lough, probably from the Ards peninsula area. However, that will not go ahead until genetic studies have taken place and that has been factored in.

We should also factor in the possibility of screening for alien species. Indeed, AFBI has developed techniques for quantifying mussel resources generally. We have to ensure that, by moving modiolus from outside the lough, we do not damage another modiolus resource for the sake of restoring

modiolus in Strangford lough. All those aspects are factored into the restoration plan, and genetic studies and surveys outside the lough have been timetabled, as well as detailed studies of the health of the modiolus outside the lough.

The Chairperson: There is talk of an experimental reef site in the plan. Where would that be based?

Mr McCaughan: An artificial reef was created in the southern area of the lough as part of the 2011 report. There has been ongoing scientific study of that, and the PhD student who has been looking at it has determined that it is well colonised with animals, although not particularly well with modiolus. There is no significant difference between using what they call raised cultch to bring in shellfish shell to create a reef and the settlement that has happened naturally on the seabed adjacent to it.

The Chairperson: There have been failures in the past, though, have there not, with the artificial reef? Is the artificial reef the same thing as the experimental reef site in the new revised plan?

Mr Service: It is a very thick reef. The most recent modiolus restoration group report — the Queen's University study that Mark mentioned — contained a lot of detailed modelling of what areas of the lough were optimal modiolus habitats. First, I would hope that, with the development of the reefs, they will select areas within the predicted optimal modiolus habitats.

To that end, AFBI has supplied the research group with the information from our aquaculture research into the areas where, we think, the food availability and the ability of the water to retain larvae, for instance, is better. To be fair to the Queen's study group, it had to develop the existing artificial reef in advance of that work being available, but better modelling and predictive tools are available to suggest where they should be putting it.

As Paddy said, that was one of the reasons for selecting that extra bit to the north — the Green Island site — because that looked to be a more optimal site for development of the reef. It is particularly important, because it is on softer muds, which would be the more unique part of the modiolus community. That was why, back in the 1990s, Strangford lough was selected to be a special area of conservation.

The Chairperson: Why is there no provision in the membership of the modiolus restoration working group for the representatives of the fisheries? Is that not something that you would find useful, given their knowledge and expertise?

Mr McCaughan: I take your point on that. The restoration working group is, in essence, a meeting of scientific minds, comprising, in particular, the Queen's University employee who is tasked with doing postdoctoral research and some specialist marine biologists from Queen's University who serve in a supervisory capacity, us, DOE and Seafish representatives.

I know that the Strangford fishermen have indicated that they would like to be involved. We are not ruling that out, but Lynn Gilmore at Seafish is very close to the Strangford lough fishermen and does a lot of work on their behalf, including going to see the Commission and bringing an entourage of them with her. She is a much better representative, frankly, than the individuals with close contacts to the fishery. Having said that, we are open-minded about bringing fishermen in, should they require a specialist briefing on particular areas or tidal currents or to contribute elements that it can. It is really a scientific group looking at the evolving work of the postdoctorate research student.

The Chairperson: Correct me if I am wrong, but there is no provision in the proposed legislation for a decommissioning scheme. We had a conversation at the time about that, and there was a debate in the Chamber. Ministers raised the issue around a decommissioning scheme.

Mr P Campbell: Now that we have agreed the closed areas, the position is that we need to look more closely at who is going to be affected by this, who wants to continue, and so on. Going forward, we need to consider the justification for assistance, in order to assist the industry to move forward to a fishing permit scheme. Decisions on that sort of support are a little way off yet, until we have thrashed out the detail of the pot fishery management plan and of who wants to be in it and who wants to be out of it.

The Chairperson: Have we any details on that management plan yet?

Mr P Campbell: We have the draft plan that was submitted some time ago to the fishing industry. We are now in a position in which we can start to take that forward, because we know what area has to be closed off. We can now make some assessment of what resource is going to be available for the rest of the people and talk to them about who wants to stay in and who considers that it will not be practical for them to fish in the areas that are left. We will then decide how we, along with the industry, can go about allocating the remaining resource and look at what sort of conditions we will need to have, the permits that will be necessary, pot numbers, what sort of pots they use, vessel monitoring, and that sort of thing.

The Chairperson: Why is there the necessity to put through the exclusion zones legislation now, when that management plan is not in place? Is the management plan looking directly at only the fisheries involved or are you looking at the likes of the hoteliers who would be purchasing the fishermen's produce or at the tourist facilities, for instance, around the lough. How far-reaching is the management plan? How far do you measure the impact?

Mr P Campbell: We are under obligations to move as quickly as we can with the exclusion zones, so we have very little leeway as far as that is concerned. The Commission will be expecting us to introduce exclusion zones as quickly as we can. We have a little bit of time. At this time of year, pot-fishing activity is a good bit less than it is during the summer months, so we have some time between now and next summer to work with the fishing industry on the management plan and to see what other measures we need to introduce along with it.

We need to have the rest of the fishery operating sustainably, and we need the fishermen who are left operating to be doing so on a profitable basis. From that, we hope that we will be able to guarantee any supplies to businesses around the lough. To be honest, we have not looked to see whether there will be any significant impact on hoteliers, restaurants and things like that around the lough.

The Chairperson: Is that something that you could factor in?

Mr P Campbell: It is something that we could talk to the industry about and get more information on. We could find out what the current situation is, who the fishermen supply and what sort of quantities are involved, for instance.

The Chairperson: That should be easy enough to do if you are communicating with the fishermen.

Mr P Campbell: We should be able to get some information. I do not know how easy it is going to be, and I do not know how detailed that information would be.

The Chairperson: I have a final question before I open the discussion up to Committee members. This new alien species — the sea squirt — has come in. How big a factor or problem will that be? Could it completely wipe out all the good work that is being done with the exclusion zone and restoration plan? Do we even know yet?

Mr Service: I do not think that we know yet. I do not necessarily believe that there will be an impact on the modiolus, because the indications provided to me are that the alien tunicate is a rather shallower-based organism than the modiolus, which is a deeper, seabed-living animal. It may have an impact on aquaculture, and we will have to keep a watching brief. It certainly has the potential to clog up oyster trestles, and so on. When we are looking at management measures, we have to be careful to factor in any likely causes from other sources and do not ascribe all problems to fishing. We have to look at factors such as the development of alien species and other activities around the lough when we are looking at management pressures and pressures on the modiolus. It is important to have a strong watching brief.

The Chairperson: Will the starfish also have to be monitored?

Mr Service: As part of the restoration plan, it is important that starfish numbers and predation be measured. If we are closing off an area to pot-fishing, we will obviously stop the removal of starfish and a number of other predators. That will have to be monitored extremely closely.

Mrs Dobson: I was going to say at the start that I was surprised that Kieran was not here.

Mr McCarthy: I came in at the right time.

Mrs Dobson: You did. I was looking to see where you were, because I know that you are very passionate about the lough.

What guarantees can you give the Committee that the measures in your briefing will result in the removal of the threat of infraction? How do you plan to monitor the results? You mentioned an annual programme. Has that been drawn up yet?

Mr P Campbell: The regulations that we propose will result in the threat of infraction proceedings significantly receding. The proposals that we have put forward for the restoration plan, including the regulations, have been discussed with the complainant, which is reasonably satisfied with what we are proposing to do. Pressure will be on to live up to the commitments that we made in the restoration plan and to make sure that we deliver those.

Matt, do you want to talk about the restoration plan and the monitoring?

Mr Service: Yes. AFBI made very strong recommendations through its membership of the restoration group. The monitoring and success or otherwise of the measures is now quantifiable and based on the robust analysis of the existing data so that we are measuring real change. We have recommended that targets be set. We expressed concern in the past that some of the monitoring efforts in the lough were not quantifiable and that rather qualitative measures have led to problems in interpreting changes in the lough.

You are absolutely right: it is essential that we are able to measure progress on a quantifiable basis. We have suggested the use of several techniques to ensure that that happens this time.

Mrs Dobson: What direct communication have you had with the EU since a Committee motion was tabled in January, which called on DARD to put in place measures to restore and protect the delicate habitat in Strangford lough urgently?

Mr McCaughan: We were directed by the Commission to discuss the issue and get a resolution between the complainant and the authorities. The pilot case process will engage with the Ulster Wildlife Trust and put in place a management regime and actions that satisfy that organisation. In addition, it is an unfortunate artefact that being engaged in a contest along those lines does not allow us to share information with the principal affected stakeholder group, which is the fishermen.

The Ulster Wildlife Trust conceded that it was content for the fishermen to have a copy of the correspondence provided to them, and that was released by the Northern Ireland Environment Agency.

We have had phone correspondence with the Commission to ensure that we are sticking by the right lines. However, it is a fairly formal beast and will say that if we want to make comparisons of fact, those should be done by the appropriate process and on the pilot case.

Mrs Dobson: Are you satisfied that the regulations will return the area to its former health? You spoke about the Ulster Wildlife Trust, and from 2006 to 2011, next to nothing was done.

Mr McCaughan: The regulations stem from the Queen's University recommendation, and that is for an area of total non-disturbance. These regulations, backed up by the DOE by-law, will remove all man-made physical disturbance from the area.

There is a strong argument from the fishermen, backed up by the article 6 assessment, that pot-fishing is not responsible for the decline. Nonetheless, the Commission anticipates the response from Departments to be that it should be an area of non-disturbance, which is what the regulations will deliver.

Mr McCarthy: I do not know how much I missed of the presentation, but my concern relates to the communication that you have had with the fishermen and their representatives, and you mentioned Lynn Gilmore. The last time that we heard from them they were pretty peeved that information was being withheld from them. Has that information been fully disclosed to them since our last get-together?

Mr McCaughan: Since our last get-together, we have had correspondence and communication with them. As I explained to the Committee, in the formal process of this pilot case, the Commission is keen that we communicate and find a resolution with the complainant. One of the difficulties in dealing with that is that our legal advice does not allow us to share that information with the other stakeholders — the fishermen — so the perspective grows that we are simply dealing with one party and keeping another party out of it. We resolved that more recently by an agreement from the Ulster Wildlife Trust to share those arrangements with fishermen, and the Northern Ireland Environment Agency has copied the correspondence to the Ulster Wildlife Trust to the fishermen.

Mr McCarthy: Are they fully aware of everything? There was a legal clause that barred somebody from disclosing to the fishermen's representative. Has that been sorted?

Mr McCaughan: Yes, at this point. We are still involved in a process. We have a draft revised restoration plan, and we are seeking ministerial clearance for that at the moment. Can we share it with fishermen at the same time as we share it with the Ulster Wildlife Trust, Paddy?

The Chairperson: Sorry, is this the article 6 assessment?

Mr McCaughan: No. They have the article 6 assessment.

Mr P Campbell: This is the restoration plan. I presume that it can be shared, once it has been agreed by Ministers.

Mr McCaughan: There is no agenda here to keep fishermen in the dark. It is a matter of playing by the rules that the Commission gave us.

The Chairperson: Why was it disclosed to the Ulster Wildlife Trust? Why was the information given to the Ulster Wildlife Trust?

Mr McCaughan: The information given to the Ulster Wildlife Trust was a proposal of future action to comply with the Queen's University recommendation and to persuade the Commission that we were moving forward into a different management regime, and to seek its approval of that. The case requires the complainant to be content with that arrangement.

The Chairperson: You have to engage with the Ulster Wildlife Trust because it is the complainant, as opposed to any other bodies that would be affected by the decisions?

Mr McCaughan: Exactly.

The Chairperson: OK.

Mr McCarthy: You are saying that that has been overcome. Lynn represents the fisherpeople, and she will be au fait with all that is going on. The concern was that some information was being withheld from them at that time.

Mr McCaughan: That is a fair assessment, given the process that we were involved in with the Ulster Wildlife Trust. It did not allow fishermen to be involved, but we approached the Ulster Wildlife Trust, and it said that we could share it, so we have done so.

Mr McCarthy: As I came in, the Chairman mentioned compensation. That will be vital for the pot fishermen who have been thrown out of this as a result of what is happening. Can you give us anything more concrete on whether that will happen? When can you give us some information?

Mr P Campbell: We cannot add any more to what we have said already. Any case for support will have to be considered by us once we have had discussions with the pot fishermen about the future pot fishing management plan and once we find who wants to be involved and who will have most difficulty with the new arrangements. I do not anticipate that we will be able to make any decisions about that until the new year, after we have had full discussions with them.

Mr McCarthy: I live beside those people, and I can report what we are saying today. They have been deprived of livelihood by what is happening, and they will want to know the outcome and where their future lies. It is important. I can report back that there is uncertainty at this moment in time?

Mr P Campbell: Now that we know what areas have to be closed, we need to talk to the fishermen and see who is affected most by those closed areas, who wants to work under the new permit arrangements and who feels that they cannot or will have difficulty with them.

The Chairperson: The evidence session has been recorded by Hansard, so it will be there for your information, Kieran. There are two aspects that, to me, are vital. It is vital that we, as a Committee, ask for the details and a timetable of the pot fishing management plan when they emerge and find out how far-reaching that management plan is. Does it directly go to just the fisheries or do we look at the wider aspects, such as restaurants and hoteliers in the area? We require that information, and the reasons that we have to go through the legislation on exclusion zones are well documented.

Are there representatives from the Ulster Wildlife Trust on the restoration working group?

Mr McCaughan: Yes.

The Chairperson: I feel that there should be representatives of fishing on that body. If nothing else, it would give them a line of communication, provide some degree of education and remove some of the ignorance on some issues. You should consider it even just in the interests of fairness.

Mr McCaughan: I will take that away, Chairman. If it improves transparency, it seems logical. However, Lynn Gilmore is there, and she is a very good representative.

Mr McCarthy: I fully support Lynn Gilmore; she is very good. However, some fishermen have been there for a lifetime and could contribute to what we are trying to achieve. It would be foolish to dismiss them.

The Chairperson: No other members have indicated that they want to speak or ask questions. Gentlemen, thank you very much for your time today.