

COUNCIL FOR NATURE CONSERVATION AND THE COUNTRYSIDE

107th MEETING

**THURSDAY/FRIDAY, 11/12 JANUARY 2007 AT CLANDEBOYE LODGE
HOTEL AND DENDRON LODGE, CLANDEBOYE ESTATE, BANGOR, CO. DOWN**

PRESENT

Dr Lucinda Blakiston Houston (Chairman)
Mr Brian Murphy (Deputy Chairman)
Mr John Anderson
Mr Brian Black
Dr Bob Brown
Mr J Campbell
Mr Malachy Campbell
Mr Patrick Cregg
Mr Joe Furphy
Mr Archie Gibson (Items 1-3)
Mr Mervyn Hill
Mr Dermot Hughes
Mr Jim Jackson
Mr Aidan Lonergan
Mr Harold McBride
Dr Alex McGarel
Mr R Northridge

IN ATTENDANCE

Mr G Seymour, EHS
Mr P Corbett, EHS (Items 1-3)
Mr I Enlander, EHS (Items 1-3)

Mr I McKee (items 4-15)
Mrs V Hamilton PS (Items 4-15)
Mr K Bradley, EPD (Items 4-15)

Mr T Reid, OFMDFM (Item 4)
Mr J McIlmoyle, OFMDFM (Item 4)

Mr Cyril Francey, Secretariat

FIELD VISIT

Members were accompanied on a field visit by Mr R Bleakley and Mr P Byrne, EHS to the Island Hill and Scrabo areas of County Down.

At the Island Hill area of Comber they looked at the site where a local farmer had breached the ASSI legislation in 2005 by ploughing up the beach which had Zostera beds, a food resource for wintering waders. Members noted that the Zostera had started to recover, although there were still signs of the lines left by the ploughing. The resulting court case was discussed and concern expressed that ignorance of the law was considered by the court a reason for non-compliance. Members considered some of the other management issues such as signage and interpretative panels for ASSIs.

At Scrabo members looked at the North and South quarries, part of the earth science ASSI in this area and considered some of the management issues such as controlling the vegetation, access, land falls and use for educational purposes.

1. APOLOGIES

Apologies were received from Mr James Simpson and Mr P Warner.

2. ASSI REVIEW PROPOSALS

Mr Seymour informed members that following the report on ASSIs to Council in May 2006, EHS has reviewed its ASSI programme. EHS realised that with its current level of resources it could not achieve its targets and consequently has drawn up a priority list of 200 sites to be designated by 2016.

Mr Corbett introduced the paper on the ASSI review proposals and outlined the rationale for the review and how EHS proposes to achieve the outcomes. He emphasised that as a result of the review it became evident that EHS would not make its ASSI targets by 2016 and the conclusion was that a priority list of 200 sites should be designated by 2016 but with the ultimate aim to complete the ASSI programme in its entirety. He outlined the (a) aims of the priority list (b) the criteria used to establish the list (c) key sites and (d) sites in the pipeline.

In discussion, members raised a number of points and issues as follows:

- It was noted that various strategies, policies and other sources of information had to be taken into consideration in developing the priority list. For example, the NI Countryside Survey enabled EHS to identify habitats which are suffering the greatest rates of decline.
- Members expressed concern that ancient woodlands only covered .08% of the land in Northern Ireland and although some may be protected by ASSI designation, this was not the complete answer, given that many sites lay outside these areas.
- There was a need to establish robust mechanisms to ensure the protection of vulnerable sites. EHS will need to move quickly in such cases and can use the mechanisms set up with DARD through agri-environment schemes and cross-compliance to deal with urgent situations. Financial constraints, however, have to be taken into consideration in dealing with the different options.
- PPS2 was an option to be used in sites vulnerable to planning development. There was also a need to use more enforcement powers for breaches of the legislation relating to environmental protection. There was also the question of the situation where a planning application has been submitted before a proposed ASSI has been designated. EHS took the view that PS would support EHS by applying PPS2. Members felt that it would be beneficial if PS had a list of all pASSI sites.
- Council noted that EHS had used both habitats and earth science sites in its risk assessment.
- Concern was expressed that the designation programme might be carried out at the expense of the restoration/management programme. Mr Seymour informed members that there could be resource implications for

the management of designated sites, but he felt that on balance it was better to proceed with the designation of the 200 sites. Members asked about the implications for the restoration programme to achieve favourable conservation status. Mr Seymour advised Council that in May 2006 EHS had indicated that it had initiated a condition monitoring programme for EU sites and ASSIs. EHS could not guarantee that the monitoring would apply to the sites already designated after 2006. He confirmed, however, that EHS would continue to protect sites no matter when they had been designated.

- Some members were concerned about the protection of some plant species and the lack of current mechanisms to stop threats to them. It was suggested that it would be necessary for EHS to identify those mechanisms which could offer protection. Mr Corbett pointed out that the list of plants was small and that some are likely to remain outstanding after 2016. A list of plants, however, was catered for in the priority list of 200 sites.
- Council suggested that its Ecosystems Group, with technical assistance from Marenco, should review the various mechanisms for protecting sites of biodiversity value and identify where the gaps are and then consider these within the policy framework and present advice to CNCC. It was pointed out that Faber Maunsell had been commissioned by EHS to look at the mechanisms for protecting woodlands and had recommended a blue print for the protection of habitats. It was suggested that EHS be invited to make a presentation on this blue print to Council at its next meeting.

ACTION: Arrange presentation on report Secretariat

- In keeping with para.2 of the Executive Summary it may also be necessary to introduce new legislation to deal with the gaps. EHS should also consider the use of any other tools which can be brought into play to ensure protection of species and habitats.
- Members were extremely concerned about the lack of resources to complete the full ASSI programme, monitor conservation status and manage the sites within a reasonable time scale. They suggested that EHS should make an aggressive bid to ensure adequate funds to do this. Mr Seymour advised Council that if the opportunity arises EHS will make a bid for additional funds but it will continue to bid through the normal bidding departmental procedures. He added that he was confident that there were sufficient resources to designate 200 sites by 2016. It was agreed that Council should make representations to the Minister or Permanent Secretary about the outcome of government's Comprehensive Spending Review in the context of the budget for environmental issues.

**ACTION: Arrange to meet Minister or Permanent Secretary
Chairman**

- Members expressed concern about the court ruling in the case involving the breach of the ASSI legislation committed by a local farmer in the Island Hill area of Comber, which established that in view of the ignorance of the ASSI legislation and the lack of signage, it was sufficient defence for the farmer to enable him to evade a substantial fine. Members

emphasised the need for a proper public display of signage at ASSI sites and this would also seek to highlight the significance of ASSIs as part of our heritage. Mr Seymour informed members that as part of the review of the Wildlife Order, EHS would be seeking to amend the ASSI legislation for , among other things, powers to enter privately owned land to erect signage. It was also noted that EHS might have some opportunities under current arrangements to erect signage on publicly owned land.

In Summary

- (a) Council endorsed the EHS proposal to draw up a priority list of 200 additional ASSIs for declaration by 2016. However, EHS is to report annually on the number of sites declared and inform Council of any problems in meeting its targets.
- (b) EHS is to keep Council up to date on favourable condition monitoring and contact members where appropriate to let them take part in the process on site.
- (c) Council recognised the lack of resources and would assist EHS in its efforts to increase its funding allocation.
- (d) CNCC with EHS would review the alternative mechanisms available

3. PAPER ON ASSI SELECTION GUIDELINES FOR ORNITHOLOGICAL FEATURES

The paper on ASSI Selection Guidelines was presented to Council for information only. However, it was agreed that if members had any final amendments for consideration that they e-mail them to Mr Enlander, EHS.

ACTION: Send amendments to Mr Enlander Mr Furphy and Mr Lonergan

4. PRESENTATION ON INTEGRATED IMPACT ASSESSMENT

Mr T Reid, OFMDFM gave a presentation on the Impact Assessment Tool and outlined the various stages of development. He highlighted the role of the Policy Innovation Unit in its remit to improve the capacity of the NI administration to address strategic, cross-cutting issues; to promote innovation in the development of policy and delivery of government objectives and to promote evidence-based policy making. He focused on a number of the key aspects of the Integrated Impact Assessment and how this could be applied to the policy making process. The policy making tool kit was designed to give departments practical guidance in development of their policies and objectives. It also sought to encourage policy makers to consider what impacts of their policies had across government and at the same time recognise that such policies had to reinforce sustainable development. It was hoped to launch the Policy Toolkit in March 2007. It will then be subject to a rolling 6 months consultation period to smooth out problems.

Council welcomed the introduction of IIA and in discussion a number of points and issues were raised as follows:

- Members expressed concern about any conflict of policies and noted that some were mandatory while others were not. There was also the problem of measuring cumulative impacts. Mr Reid recognised this and informed members that the IIA introduced another layer in addition to the statutory process. They worked on the basis of the lowest common denominator in determining a framework. The key aspect of identifying the policy issues was the use of screening tools.
- It was important to have an accurate assessment of predictive capability and monitoring played an important role in this.
- The question of targeting social need (TSN) and weighting of impacts was raised. In the case of the TSN there was a social inclusion unit to deal with this. TSN was mainly handled by screening questions and these were reviewed in the context of the IIA. In the case of weighting it was unlikely that there would be a large number of negative impacts. It was sufficient to consider the significance of impacts and their priorities.
- A balance had to be struck between the time taken for assessing and delivery of outcomes. The Policy toolkit played a role in achieving this and could be used to encourage innovation and identify where the potential of the IIA impacts were likely to be. This process was also aided by screening measures. It was important that policies should not be stifled under layers of bureaucracy and should represent value for money.
- There was a need to address any policy gaps but Mr Reid pointed out that the IIA only applied to existing policies and not new ones. The Chairman highlighted the Government's policy on Fit for Futures and the lack of any means for achieving and delivering the health benefits. Mr Reid explained that there was firstly a need to identify how to engage with the outcomes of policy on the basis of a broader evidence base.
- Members asked about the flexibility of using the precautionary principle and what happens if screening fails. The process depended on the accuracy of the knowledge base and this had to focus on where potential impacts are and an analysis of the facts and figures made. Contacts for people had to be drawn up and best practice carried out at all times.
- There was no government wide database, but the OFMDFM was developing an online reference library and associated databases but this will not be available until post April 07. Members felt that if this was the case that there should be a single 'gateway' to achieve access to the information.
- IIA was not mandatory but even if it were it would not necessarily achieve the desired result and therefore OFMDFM preferred to implement the process through policy toolkits.

The Chairman thanked Mr Reid for his presentation.

5. MINUTES OF THE 106TH MEETING – 3 NOVEMBER 2006

The minutes of the 106th meeting of 3 November were agreed subject to the following amendments:

Page 8 Item 12.2 (a) The planners had given permission for the housing development in Lisburn even though the Rivers Agency had advised them that because of the potential risk of flooding this development was inappropriate.

Page 8 Item 12.2 (b) delete 'designated' and insert 'de-designated'

6. CHAIRMAN'S BUSINESS

6.1 Congratulations

Council congratulated Mr Furphy on his award of the OBE in the New Year's Honours List.

7. GUIDANCE ON THE DESIGNATION OF LOCAL NATURE RESERVES

Mr Seymour reminded members of the LNR proposals submitted to Council in 2006. It was felt that with the possible uptake of further LNRs by local councils that it would be useful for EHS to produce guidance for councils and other interested bodies on the designation process. Even though EHS has no statutory role in the designation of local nature reserves and CNCC has, it was more likely that these bodies will seek guidance from EHS.

Mr Cush introduced a paper on 'Local Nature Reserves in Northern Ireland: A Guide to their Selection and Declaration'. He outlined the history of local nature reserves and their legislative base – the paper represented a working document for local councils, NGOs etc .on how to designate a local nature reserve. It was intended to publish the guidance on the EHS website and augment the awareness of LNRs with promotional material and events.

Members discussed the importance of the paper and made the following comments:

- Council welcomed the EHS guidance paper but felt that the document was too long. They took the view that section 4 – Procedure for declaration for Local nature Reserves in Northern Ireland should be the main focus of the guidance. The document might require more clarity.
- It was agreed that a foreword by CNCC should be included in the document.
- With greater interest in LNRs through the role of local council biodiversity officers and the proposed changes of the RPA and environmental governance, the document represented a sound basis for taking LNR proposals forward.
- As the document was intended for Councillors, council officials and Biodiversity Officers, Mr Cush was urged to submit the draft to two

existing Biodiversity Officers (in Belfast and Craigavon Councils) to obtain opinion regarding its clarity and “fit for purpose”.

- There was a suggestion that the document could be used as a manual but it may need to be shortened. LNRs do not have to go through the same designation process as ASSIs.
- Page 9. 4. 2. 1) It was suggested that the mention of ASSI in the text was inappropriate and that the paragraph should be reworded.
- Members suggested that the document should have more recognition of BAPs and their strategic use. It was recognised, however, that this was likely to be more effectively done through new responsibilities for local councils under the transfer of functions associated with the RPA.
- Members suggested that clarity was needed in relation to LNRs within an ASSI in that there should be no transfer of functions in maintaining favourable status of such sites.
- Concern was expressed that there should be mechanisms for external groups as well as local councils to identify areas for LNRs. The point was made that any member of the public could approach the local council with a proposal. It was therefore important that this mechanism was known in the public domain.
- Local council biodiversity officers were supported by EHS funding for only 3½ years. There was therefore a need to ensure that there are alternative sources of funding so that they are retained in post. There might be a case for exploring the use of local businesses in a partnership arrangement as a potential source of funding.
- It was noted that EHS is still to discuss its guidance paper with local councils.
- Members felt that CNCC should be involved in any quality control measures.
- A number of LNR proposals were in the pipeline and it was agreed that they be submitted to the Ecosystems Group for consideration and then endorsed by full Council. A list of LNRs in progress is to be recorded.

Mr Cush undertook to re draft the guidance paper and circulate it to members. The Chairman is to draft the foreword and circulate to members for approval.

ACTION: Draft foreword for LNRs

Chairman

8. CNCC FORWARD PROGRAMME 2006/07

The Chairman referred to a letter dated 9 January 2007 from the Permanent Secretary. The Chairs of the 3 SACs have been invited to attend Departmental Boards to give them the opportunity for a more in-depth discussion about the roles and agendas of the Councils. The Permanent Secretary also indicated that the Councils identify their programmes of work.

Members considered the draft Forward Programme and highlighted a number of other areas to be included such as;

- At least two new position statements are to be produced and one to be reviewed.
- There is to be a review of the mechanisms which affect habitats and species using the findings of Faber Maunsell and Marenco.
- Marine conservation and climate change
- EHS and EPD are to feed in their requirements for consultation with CNCC, eg; Marine Bill, Wildlife Order and Mourne National Park etc. Planning Service will also have an input to the programme through its planning policy statements.

The draft Programme is to be revised and submitted to the March Meeting.

ACTION: Revise draft programme Chairman

9. REPORT FROM WORKING GROUPS

Members noted the draft minutes of the Access Group Meeting of 5th December 2006 and SEA Group Meeting of the 11 December 2006.

9.1 Access Group

Mr Hill reported that the Access Group was developing a position paper on the issues relating to access in the countryside. It was noted that following a meeting involving the Office of Law Reform (OLR) the view was that there are no plans to amend the Occupier's Liability legislation because it was felt that the existing law was adequate but needed some clarification. The OLR undertook to clarify the legislation and make this available to the public. The Access Group is to monitor how this exercise progresses. Members took the view that the proposed position paper presented the opportunity for Council to move the issues forward.

Council recognised that there was also a need to look at the question of trespass and the number of associated compensation claims by the public. It would be useful to carry out a comparison exercise on claims between GB, NI and RoI.

The Deputy Chairman informed members that CAAN has invited CNCC to take part in the organisation of a seminar on countryside access.

10. MEMBERS REPORTS

Members noted the various minutes and reports.

10.1 Oxford Island NNR Management Committee

Members noted the Minutes of the meeting of 8 August 2006.

Mr McBride highlighted the Committee's concerns about the lack of funding for Craigavon Council's Biodiversity Officer and the impact this will have on its Biodiversity Action Plan. Mr Seymour advised members that EHS has offered funding up to one year for retaining the services of its Conservation Officer.

10.2 Magilligan Management Committee

Members noted that the Land Management Plan for Magilligan was almost completed. It was important to make sure this was delivered and it was agreed therefore that it would be useful to have a meeting of full Council at Magilligan Army base for a presentation on the MOD Plan.

10.3 CIWEM Conference on Farming, Water and the Environment held in November 2006.

Members noted the report of the CIWEM conference held in November 2006. It was felt that the Ecosystems Group should consider the implications of privatisation of water on biodiversity, particularly in relation to opportunities in improving water quality to reduce treatment costs of water at source.

10.4 Lough Neagh Seminar and Workshop on 9 November 2006

Members noted the report on the EHS Lough Neagh seminar and workshops.

10.5 Sustainable Development UK Conference on 28 November 2006

It was noted that one of the major outcomes of this conference highlighted the lack of a co-ordinated approach to environmental issues.

10.6 Climate Change Conference on 30th November 2006.

Members noted the report of the Chairman on this conference.

11. EHS NATURAL HERITAGE STRATEGIC PLAN 2006-09

Members noted the EHS Strategic Plan for 2006-09.

12. MATTERS ARISING REPORT FROM 106TH MEETING

12.1 REGNI

Mr Seymour informed members that EHS is to meet the Review Panel again on the 23rd January, to respond to a number of their questions.

12.2 Energy Savings

Council is to carry out an assessment of its carbon footprint throughout the year. Mr Lonergan undertook to send Council the outcomes of the RSPB exercise carried out in this field.

ACTION: Send Chairman information on RSPB exercise

Mr Lonergan

12.3 ASSI Proposals

Mr Seymour referred to the suggestion by CNCC that EHS consider a process for identifying sites within agri-environment schemes such as CMS and ESAs. He informed members that EHS liaises closely with DARD when developing management proposals for ASSIs. The difficulty was that farmers may not

considered by the Minister for a further 12 month period. The Minister would be influenced by the result of the Irish Hare survey. Mr Seymour informed members that the 2006 survey showed a small drop in population from the previous year, but that the population was still significantly higher than in 2002 when the first survey was carried out. It was therefore difficult to predict any long term conclusions.

15. DATE OF NEXT MEETING

The next meeting of Council is to be held on Friday, 9th March 2007. The dates of meetings for the remainder of the year are -

- Friday, 11th May
- Wednesday, 27th June
- Thursday/Friday, 6th/7th September
- Friday, 2 November

(the meeting finished at 1.00pm)