

COUNCIL FOR NATURE CONSERVATION AND THE COUNTRYSIDE

116th MEETING TO BE HELD ON THE 17th JUNE 2008 AT LISBURN CIVIC CENTRE, LISBURN

Present:

Mr P Casement, Chairman
Mr B Murphy, Deputy Chairman
Mr J Anderson
Mr B Black
Mr A Gibson
Mr M Hill
Mr J Jackson
Mr A Lonergan
Mr H McBride
Dr A McGarel
Mr R Northridge
Mr J Simpson
Mr P Warner

In Attendance:

Mr G Seymour, EHS (Items 1-9)
Mr I Enlander, EHS (Items 1-9)
Mr P Corbett, EHS (Items 1-9)

Mr C Savage, PEPG (Item 1-9)

Mr C Francey, Secretariat

1. APOLOGIES

Apologies were received from Mr J Furphy, Mr J Campbell, Mr M Campbell, Mr P Cregg, Dr B Brown, Mr D Hughes and Mr P Scott, DARD.

2. MINUTES OF THE 115TH MEETING HELD ON THE 9TH MAY 2008.

The minutes of the 115th Meeting were agreed.

3. CHAIRMAN'S BUSINESS

3.1 Environmental Governance

The Chairman thanked members for their assistance in drafting the letter dated 9th June to the Minister in response to her decision not to set up an independent environmental protection agency.

4. ASSI PROPOSALS

The Chairman declared an interest in this item and the Deputy Chairman took over the Chair.

Mr Enlander introduced the paper on the ASSI proposal for Carey Valley. He outlined the history and significance of the rock formations and deglacial landforms. Mr Enlander also covered the biological features of the fens and the plant yellow mountain saxifrage *Saxifraga aizoides*.

Members raised a number of points as follows:

- It was noted that farmers and landowners are only contacted before the designation of sites for access purposes only. It is only after the designation that formal consultation takes place.
- In the case of Turbury Rights there was one area of degraded bog but little new cutting has taken place. However, given the current price of oil this could change. It was important to monitor the site for any new activity.
- Members were concerned that the southern end of the area was not included within the proposed designation. EHS took the view that if geological or biological features were involved then this could have been considered. However, EHS undertook to consider a modest extension of the boundary which was representative of the features.
- Members were concerned that in any early discussions with landowners about the proposal for an ASSI that they might take action to degrade the site. Mr Seymour took the view that because the ASSI is declared before any formal consultations take place there is limited capacity to degrade the site.
- It was noted that yellow mountain saxifrage was very rare in Northern Ireland and this was borne out by the very few sites where the plant is found.

Council endorsed the proposed designation of the Carey Valley ASSI subject to consideration by EHS of the suggested extension by members.

5. ASSI CONDITION ASSESSMENT

Mr Corbett introduced the paper on the results of the first condition assessment monitoring cycle 2002-08 of ASSIs in Northern Ireland. He emphasised the importance of using the UK Common Standards Monitoring technique which considered features, attributes and targets. He gave details of the findings relating to (a) all features (b) earth science features (c) species and (d) habitats. Of these four areas habitats features had the worst results in that some 56% of the sites were in unfavourable condition. He highlighted a chart showing the factors contributing to unfavourable condition and pointed out that undergrazing was the main problem affecting these sites. Mr Corbett informed members that the UK had better results in comparison to NI mainly because the ASSIs in Northern Ireland have not been designated as long as the SSSIs in the UK. He emphasised, however, that the sites in NI had not necessarily got worse since being designated. EHS had identified problem areas through this assessment and would be tackling these deficiencies by the use of MOSS schemes, agri-environment schemes and site specific management.

In discussion, the following points emerged:

- Members noted that EHS was working closely with DARD and its new Countryside Management Scheme, but it was felt that it could make better use of local council biodiversity officers. EHS is to consider how it can make use of biodiversity officers in the monitoring of sites.
- Council took the view that part of the reason why NI was different to the UK centred around attitudes and a lack of education and awareness of conservation issues. It was important to have a good education programme as well as management techniques.
- Freshwater pearl mussel was included in the assessment of sites. Generally the freshwater results were better than anticipated but the status of species in lakes and rivers was disappointing with 72% in unfavourable condition.
- Habitats were generally in poorer condition than species, with 56% unfavourable. Woodlands, grassland, wetland and coastal habitats were particularly poor.
- A question was raised about favourable condition of ASSIs and the comparison with the EU sites. Mr Corbett pointed out that favourable conservation status of EC protected habitats and species across their range was different to favourable condition of ASSIs.
- If the Report is published on the DOE website it would need to be accompanied by a supplement which would indicate how the issues will be tackled. Members were concerned about the availability of resources to carry this forward.
- Mr Seymour commented that with the first results of the monitoring exercise being completed, EHS recognised the scale of the problem and the remedies needed to bring sites up to favourable condition. There was a need to (i) assess how many features needed to be turned around, (ii) analyse them and then (iii) consider resources required to correct them. EHS would now consider what targets it had to achieve and in due course it would submit them to Council. Members felt that it was important for EHS to prioritise the work to be undertaken and in this context it should use the assessment report as a springboard for doing this while also ensuring that it has the resources to achieve the task.
- Council recognised the potential of a remedies programme and the use of NICMS in achieving targets for the condition of features and attributes of ASSIs.

The Chairman thanked Mr Corbett for his presentation.

6. REVIEW OF WILDLIFE ORDER - Update on consultation

Mr Savage gave Council an update on the responses to the consultation on the Review of the Wildlife Order. He informed members that PEPG had received some 80 responses. Many of these were in broad support of the proposals such as:-

- the statutory duty to further the conservation of biological diversity
- regular review of schedules
- greater enforcement powers
- the status of the Curlew
- the addition of Golden Plover to schedule 1
- Irish Hare not to be included in Schedule 5
- the issue of stop notices for unauthorised work within ASSIs.

There were also issues where views had been more divergent, including :-

- Deer management
- Shooting seasons
- Penalties for offences under the Order

PEPG are considering setting up Focus Groups to try and reach some form of consensus on these points.

In brief discussion, concern was raised about what happens if there is a change of ownership of the land within ASSIs - this had not been addressed in the Environment Order. It was vitally important that in cases where there are changes of ownership that new landowners are made aware of ASSI designation. Members suggested that there should be an onus on Land Registry to do this. It was compulsory for owners to notify the Land Registry of any change in circumstances.

The Chairman thanked Mr Savage for his presentation and suggested that the final proposals for amendments to the Wildlife Order be brought back to Council in due course.

7. PROHIBITION ON THE USE OF LEAD SHOT OVER WETLANDS

Mr Savage informed members of the consultation regarding the prohibition on the use of lead shot over wetlands. Responses are due by the 22nd August.

The Department was proposing to introduce restrictions in relation to the use of lead shot by the shooting community. This measure is being introduced as part of an international commitment under the African-Eurasian Migratory Waterbird Agreement. DOE was hopeful that it could work with interest groups, but this depended on whether or not these groups respond to the consultation. In discussion a number of points and suggestions emerged as follows:

- Council suggested that the central offence under this Order should be carrying a gun loaded with lead shot while hunting in a wetland. It was pointed out that there could be enforcement difficulties in implementing this condition because it would not be high enough on the PSNI list of priorities.
- Members noted that there has been no research quoted in the consultation on this topic in Northern Ireland and none in the UK since 1983. It was pointed out,

Ms McKinley pointed out that EHS and NISRA were already linking with DARD and

- (f) some members felt it would be useful to include archive material in considering landscape change.

Council commended EHS on its Report as a first step and welcomed the intention of EHS to cover a wider range of issues in future reports.

9. DOE CORPORATE PLAN 2008-11/BUSINESS PLAN 2008-09

Council considered the Department's Corporate Plan 2008-2011 and Business Plan 2008-09. Members expressed concern about the financial resources which showed a drop in the budget of EHS, but reflected a substantial increase in the budget of PEPG. The main reason for this was thought to be the transfer of certain functions from EHS to PEPG.

Members were concerned that with the set-up of the new NI Environment Agency there would be no increase in resources. There was also a concern that resources would be directed towards compliance with EU Directives. It was noted that the budget for a substantial number of EHS vacancies would be used to contribute to the required savings in the overall expenditure programme. Members believed that this situation impacted significantly on the delivery of core objectives. Mr Seymour pointed out the difficulties in filling vacancies with the main problem being the slow recruitment process. There was some concern that with the transfer of functions to PEPG, Council would be excluded from scrutinising these activities. Mr Seymour assured Council that as a statutory advisor to the whole of DOE this would not change.

The DOE Corporate Plan predates the new agency. Although the EHS Corporate Plan is at an advanced stage, there is a need to formulate a new 3-year Corporate Plan for the new agency. As the NIEA starts on 1st July an interim 1-year Business Plan will be published on that date.

10. DISCUSSION ON MINISTER'S ANNOUNCEMENT ABOUT ENVIRONMENTAL GOVERNANCE

The Chairman referred to the Minister's recent announcement on Environmental Governance and the re-branding of EHS to be known as the Northern Ireland Environment Agency. He had made an initial response to the Minister expressing Council's disappointment and concern that the opportunity had not been taken to set up an independent environment protection agency. A further more constructive critique is to be submitted to the Minister. In the meantime he had agreed to sit on the Department's new Better Regulation Board and will be the only member with an environmental background.

Members considered the First Thoughts Paper on the Minister's Statement and in discussion a number of points emerged as follows:

- The point was made that in a recent judicial review, the judge had ruled that EHS cannot be policy maker as well as implement regulations and

enforcement. This ruling was currently under appeal and the outcome would have significant implications for the new Agency.

- Mr Seymour informed Council that the new Agency would take effect from 1st July. He outlined some of the actions so far undertaken to facilitate the implementation of the new structures. He explained that the whole process of re-branding is likely to take some years to complete. There is to be a new arrangement for board meetings and these will in future be open to the public.
- The new Agency will be staffed by Civil Servants. It was pointed out that executive agencies are administrated by civil servants and are not considered NDPBs. There was a problem of how, within the new framework, the Chief Executive can be considered as independent and remain outside political control. The role of the new Chief Executive was critical to the better regulation of the environment. It was suggested that one option would be for the post of Chief Executive to be answerable to the NI Audit office and Public Accounts Committee and not the Minister. Another suggestion was that the Chief Executive should report to the Environment Committee. However, the difficulty here was that some members of the Environment Committee wore 'two hats' and could exercise differing pressures on the new Agency.
- Members emphasised the need for checks and balances for environmental outcomes. There was some concern that there will be insufficient resources to improve on the targets for achieving conservation status of designated sites. The outcomes should be an indicator and evidence of how the new NIEA is performing. Council should take the opportunity to influence the way forward for the new Agency. At this stage Council should adopt an inquisition role in seeking to establish the role of NIEA.
- It was noted that the NIEA will have an additional £2.1m to cover its better regulation and environmental crime team. This extra funding was available from not having to set up an independent body. There was concern that funds will be moved from the core business to focus on the regulatory functions.
- Consideration should be given to how enforcement will be improved, issues around crown immunity and management of the environment.
- Generally, the public has no deep knowledge of the environmental issues and this is an area where NGOs can help. Many of the issues are strongly influenced by the farming lobby and their influence is aided by a lack of political will to address the value of the environment. Commercial and economic factors play a major part in how the environment is controlled. Members emphasised the need for open and accountable government in managing the environment.
- Members suggested other areas to be included in Council's detailed response, such as (a) the non-filling of the post of Sustainable Development Commissioner for NI and the lack of the implementation of the SD strategy,

**ACTION: Discuss projects with Faber Maunsell
Chairman/Deputy Chairman**

12. REPORT FROM WORKING GROUPS

Members noted the Minutes of the Eco-systems Sub-Group of the 27th May, and the email from Mr McBride setting out his concerns about the item on badgers.

Council discussed the issues relating to the proposed licensing for a pilot survey on the prevalence of TB in Badgers. Members expressed the view that there was already information available on badgers and there was therefore no need for more research. There was also a view that if the pilot scheme does not proceed, the farming lobby will push for a substantial cull in Northern Ireland. It was only DARD's intention to establish the level of prevalence and spread across the country. . Members also recognised the important issues raised by Mr McBride including the proposal by DARD to use snares or restraints to capture badgers prior to killing. He pointed out that this method was not acceptable in England (on animal welfare grounds) and it should not therefore be used in Northern Ireland

Having considered all the arguments, both at Sub-Group level and full Council debate, Members took a unanimous decision not to approve or support the DARD application for a licence to carry out a pilot scheme for the study of the prevalence of TB in Badgers.

ACTION: Inform Mr Seymour of Council's decision Secretariat

13. MEMBERS REPORTS

13.1 Sustainable Communities Conference

Members noted a report tabled by Mr Hill on the Sustainable Communities Conference held in London on the 5th June 2008.

14. MATTERS ARISING REPORT FROM THE 115TH MEETING

14.1 Modiolus Restoration

Mr Seymour reported that the first meeting of the interdepartmental Group set up to oversee the Modiolus Restoration Programme was scheduled for the end of June 2008.

15. GENERAL INFORMATION

Members noted the events and publication lists No. 104.

16. ANY OTHER BUSINESS

16.1 River Faughan ASSI

The Chairman reported that damage had been reported as having taken place to the River Faughan which had recently been designated as an ASSI. This has been reported to EHS. Council is to be updated on what action has been taken to deal with the matter.

ACTION: Update members EHS

16.2 Sea Eagles

Mr Black informed Council that Sea Eagles have been seen in the Clay Lakes area of Strangford Lough.

16.3 Crawfordsburn C P

A complaint had been received from the public that contractors appointed by EHS had been operating in Crawfordsburn Country Park in the middle of nesting season. This would be drawn to the attention of EHS.

ACTION: Inform EHS about complaint Secretariat

17. DATE OF NEXT MEETING

The next meeting of Council will be held on the 4/5th SEPTEMBER 2008

(the meeting finished at 3.30pm)