



Northern Ireland
Assembly

**COMMITTEE FOR THE
ENVIRONMENT**

**OFFICIAL REPORT
(Hansard)**

**Wildlife and Natural Environment Bill –
Briefing by Ulster Farmers' Union**

25 February 2010

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Members present for all or part of the proceedings:

Mrs Dolores Kelly (Chairperson)
Mr Jonathan Bell
Mr John Dallat
Mr Ian McCrea
Mr Alastair Ross
Mr Peter Weir

Witnesses:

Mr Wesley Aston)	Ulster Farmers’ Union
Ms Kate Cairns)	Ulster Farmers’ Union
Mr Gregg Shannon)	Ulster Farmers’ Union

The Chairperson (Mrs D Kelly):

The next session is a briefing from the Ulster Farmers’ Union. I welcome Mr Gregg Shannon, chairman of the legislation committee, Mr Wesley Aston, policy director, and Ms Kate Cairns,

who is a policy officer. Good morning. I am sure that some of you are familiar with the format.

We are grateful that you submitted a written briefing in advance. You should take five or 10 minutes to talk us through the salient points, after which members will ask questions.

Mr Gregg Shannon (Ulster Farmers' Union):

As the Chairperson said, since we have submitted our written comments, there is no point in repeating them. We are grateful to the Committee for inviting us to give oral evidence.

We fully agree that wildlife in the countryside needs protection, and farmers are making a significant positive contribution to protecting the diversity of the land through agri-environment schemes. There are 1,717 hectares of wild bird cover; 600 km of field boundaries have been restored; about 6,500 hectares of farmland is used to breed lapwing, curlew, redshank and snipe; and nearly 13,000 hectares of spacious grassland has been encouraged to develop. Through the ages, farmers have been conscious of their environment, and the agri-environment schemes have pushed that further and in a more organised way.

We support the need to amend the Wildlife Order. Departments must adhere to all closed periods and all components of legislation. We referred to that in a recent discussion with the Committee for Agriculture and Rural Development in respect of forestry, when the Forestry Division proposed that it should be exempt from the closed periods for the control of invasive and other species in and around forests. We were most unhappy about that, so it does no harm to re-emphasise the point.

The same applies to road verges, as road maintenance work can upset the biodiversity for quite some time; it also applies to invasive species. Given the risk of disease, there should be robust checks at entry points into the country, such as ports and airports. As a colleague of mine said, the EU tended to take the attitude that we could share all our problems but that we should not allow any more problems into the EU. That is rather a facetious comment, but there is some truth in it. If we are not careful and wait months for a discussion to see whether more robust checks could be introduced to deal with a problem in a particular area, diseases and invasive species could spread much further than they should. Therefore checks should be as robust as possible.

We are worried about the provisions of the Bill that refer to recklessness. An easy option is to say that it is up to the courts to decide. However, it is difficult for a person who is charged with that responsibility to realise in time that he might be doing a reckless action.

My other point relates to “knowingly causes” offences. People act knowingly if they are familiar with the Order and the environment well and they are conscious of what might cause problems for wildlife. However, such is the volume of legislation that no one can be expected to know it all. Therefore, it would be useful to have something more definitive.

Clause 17 relates to the possession of articles for purposes of committing offences. We need something more explicit to specify that people would be committing an offence if they were going after wildlife rather than be charged for being in possession of a shovel that they will use to clean a sheugh. Someone with a bit of wit would know whether a person was doing an insignificant action that had nothing to do with wildlife.

Clause 20 refers to wildlife inspectors. We regard inspectors as a stage below police officers.

In most other offences that we could be subject to, the police have to be brought in if a charge is to be brought. We do not like the idea of wildlife inspectors having powers similar to those of police officers. With regard to entry, we have significant biosecurity and health and welfare concerns for our own livestock, which are not described as wildlife but which are just as important. We would prefer to see the schedules reviewed over a period of 10 years rather than five. Changes happen slowly in wildlife.

In five years' time, one side might say that nothing had happened and that the schedules must be improved, whereas with a review after 10 years they could realise that they had overreacted. It takes time for things to happen.

Another issue for the UFU is ASSIs, which are already tightly controlled; therefore the risk of that work being duplicated by the provisions in the Bill is high. The UFU does not want it to be possible for a person to be fined twice under different pieces of legislation for the same apparent offence.

The Chairperson:

Would you like to pause to allow the Committee to ask questions? You seemed to be about to move on to the issue of the closed hedge-cutting period, and I wondered why the UFU wanted the end date for that brought forward from 31 August to 31 July. What difference would that make?

Mr Wesley Aston (Ulster Framers' Union):

Hedge cutting is part of the cross-compliance arrangements under the EU's single farm payment scheme, and in Northern Ireland there is an issue with wetter ground and trying to carry out practical farming activities. If the closed hedge-cutting period runs from 1 March to 31 August, by September it is too late to do some of that work and more damage could be caused to hedges if farmers are only allowed cut them from September onwards.

The UFU has always had an issue with that provision, and there are different dates in the rest of the UK and the South of Ireland. The UFU is very keen to move the end date for the closed hedge-cutting period from 31 August to 31 July. Farmers will still have to examine hedges to see whether there are nests in them when they are being cut, but at least they would be allowed to cut

hedges rather than adopt an across-the-board approach. The UFU is very keen to move that date back. It raised it before and will do so again.

The Chairperson:

Has anywhere else 31 July as the end date for the closed hedge-cutting period?

Mr Aston:

Yes; England and Scotland.

Mr Kinahan:

Before I begin, I declare an interest as a member of the Ulster Farmers' Union.

I am intrigued. The witnesses' submission begins:

"The Ulster Farmers' Union represents approximately 11,000 rural families".

In its submission, NIEL said that it:

“manages over 314,000 acres of land.”

It seems that environmental groups set the rules that farmers must obey, yet farmers look after most of the land. Do you know roughly what acreage those 11,000 rural families cover?

Mr Aston:

We do not have a specific figure. We know the area of agricultural land that those farmers occupy, but we do not know how much acreage that represents.

Mr G Shannon:

The vast majority of farmers are included in the 11,000 farming families that the UFU represents.

Those farmers may have 50 acres or 500 acres, but that land may not necessarily belong to them.

From memory, some three quarters of the total land area of Northern Ireland is covered by members of the UFU.

Mr Ford:

I thank the witnesses for their useful presentation and submission.

The witnesses will find some sympathy from Committee with their concerns about public-sector bodies having the same obligations as others. Therefore, I will make a few points that are more critical of the issues that the witnesses raised. Has the UFU received evidence from the RSPB, or any other wildlife organisation, on what it feels is an appropriate period in which to cut hedges?

I accept Wesley's point that land operations are much easier to carry out in August than during a wet September. However, if any research has been carried out on when birds nest in hedges in Northern Ireland it would make it much easier for the Committee to consider the issue.

Mr Aston:

When the UFU raised that issue some years ago, the Department of Agriculture and Rural Development spoke to the RSPB, which told the Department that there was evidence of birds

nesting later in Northern Ireland. However, the UFU has no definitive proof of that, and it understands that the Department has gone back to the RSPB to ask for information on what birds nest at what times.

Mr Ford:

One of the problems of global warming is that birds nest earlier, which would strengthen the UFU's argument. However, I am unsure whether that necessarily means that there are not also birds that nest later. That kind of issue must be taken into account.

Gregg, you referred to people going out equipped for wildlife crime and to people going out equipped to clean a sheugh, and I accept that that is an issue. However, would common sense not enable someone to tell the difference between my brother-in-law walking across a field with a spade and shovel and a dog perhaps, and four gentlemen with two lurchers, a terrier, spades and shovels, who have travelled some distance and turned up on a Sunday morning? I understand your concerns, but I cannot see how, on any application of common sense, people will not be able to make that distinction.

Mr G Shannon:

Frankly, Mr Ford, we have the same expectations as you about people's common sense. The trouble is that we find that an increasing number of people do not have the sense to appreciate the difference. We are merely discussing that aspect — it has not been enforced — but we have to comply with various other legislative regulations, including the nitrous legislation, for example. People may become annoyed and regard an action as malicious that is mainly due to lack of understanding. That wastes our time, the authorities' time and, to some extent, the wildlife's time.

Mr Aston:

Farmers have had more inspections and other requirements imposed on them, and there is a fear factor now. There are examples of common sense or practical approaches not having been taken in other areas. There is fear, and that comes through in the Bill.

Mr Ford:

Clause 28 concerns notification of change of owner or occupier of land that falls within an ASSI.

You gave the example of a person who is grazing someone else's sheep on a dairy farm in the short term, and we accept that that is a small-scale issue. However, is it not reasonable that a notification should be made if land is let on a lease of a period of years under a grazing licence or is let in conacre even for the full 11 months?

If ASSIs were marked on farm maps, it would be a clear reminder to people to fill in the appropriate forms and so on. You gave an example that is at one end of the scale and, indeed, it would not be reasonable for someone who is merely grazing sheep for two or three weeks to have to make a notification. However, if people who have rented land in conacre engage in field operations that could damage an ASSI, it is not unreasonable to expect those people to make a declaration.

Mr G Shannon:

I come at the issue from a slightly different angle, Mr Ford. If a new ASSI is to be designated, it

should be discussed publicly. People should be advised whether their land is likely to fall within that ASSI, and that will lead to a conclusion eventually. It is up to the Department to notify a landowner if his or her land will be formally included as an ASSI. If a landowner lets land for a long or a short period, it is up to him to advise his tenant that it is an ASSI and that, as such, the rules that apply to an ASSI must be obeyed. Why would the Department not let all the landowners affected know about the designation of a new ASSI?

People do not need a notification before them saying that their land has been let for two weeks or two month; that would only lead to red tape and bureaucracy. If the Department knows that I own the land and tells me that I am not obeying the rules, I would tell my tenant to catch himself on.

This is an overkill of information transfer from the Department, which will be 1% or less effective in managing ASSIs.

Mr Aston:

It is easier for the person who owns the land to know what is happening; one cannot expect a person who leases the land, even for a short time, to be told that information. Similar situations exist in other areas of the agriculture industry. Landowners claim single farm payment on their land, but it is the tenant who farms the land. The rules on cross-compliance relate to the landowner who is claiming on the land. Strictly speaking, the landowner has to tell the tenant exactly what he or she can and cannot do with regard to activities such as spreading slurry. One cannot expect a tenant to know what he or she has to fulfil; the landowner should know that.

Mr Dallat:

I apologise if this question was asked when I was out of the room. The UFU says that inspectors should have a warrant to enter a farm and that they should be accompanied by a policeman. Why do you want that?

Mr G Shannon:

It is an extension beyond the powers of entry that others have. DARD inspectors can go on land

without a warrant; their powers exist in legislation. They do not need to be accompanied by a policeman. Our view relates more to instances in which evidence is being gathered for prosecutions, if it goes that far. All cases involving the USPCA require the presence of a policeman.

Mr Dallat:

You must be horrified by some of the scenes of excess that we have seen on television in recent years. Why make it more difficult for people who are trying to make things better? Surely, wildlife inspectors do not need to be accompanied by a gun-toting policeman.

Mr G Shannon:

I am not suggesting that they do.

Mr Dallat:

That is what your papers say.

Mr G Shannon:

A wildlife inspector does not need the powers of a police officer unless he intends to prosecute an individual or seize animals.

Mr Dallat:

Do you want to hide excesses?

Mr G Shannon:

No. The health and welfare of wildlife is different from that of farm animals.

Mr Dallat:

How?

Mr G Shannon:

Such circumstances require that a policeman be with the inspector.

Mr Dallat:

Why should wildlife be treated differently from domestic animals?

Mr G Shannon:

When domestic animals are seized they are taken away for recuperation. However, it would be a major job to seize a wild animal; one would not want to take it out of its habitat.

Mr Dallat:

One would not want it to be stuck in a snare either.

Mr G Shannon:

It should be released. Snares are useful, but they have to be run according to legislation.

Mr Bell:

In the past couple of weeks, we had a discussion about the protection of the curlew bird. The Countryside Alliance said that it was concerned about the loss of habitat. Perhaps this is a cross-cutting theme. Is there any relationship between the UFU, the Countryside Alliance and the RSPB? The farmers whom I know and grew up with, and the majority of farmers, are good guardians of the countryside and want to protect it. There are bad examples everywhere, and they have to be rooted out. Does your organisation have any bilateral relationships with the RSPB and the Countryside Alliance to see whether there are farming practices that damage the habitat and the chances of the likes of the curlew bird?

Mr G Shannon:

We have discussions with all the relevant organisations, where necessary, to consider the overall effects; at the moment, we are consulting the British Association for Shooting and Conservation (BASC), which represents the shooting fraternity. The countryside has developed over hundreds, if not thousands, of years, so when we talk about preserving wildlife we are talking about preserving the status quo that has been arrived at over those hundreds and thousands of years.

Our major problem — the one that we keep referring to whenever we can — is that as the economics of farming and the consumer's requirements change; there is a slow change in the habitats that were maintained by the existing stock and cropping regimes. For example, the water authorities wanted sheep removed from the Mourne because of the risk of cryptosporidium. The problem now is that there are no sheep in the Mourne that formerly tackled the undergrowth. I am told that the situation is getting out of hand. Someone will have to decide whether the risk of cryptosporidium should be controlled through our water treatment systems or by removing stock. If there are no sheep on the land, there will be rabbits that can carry cryptosporidium, so I do not see how the water supply can be guaranteed in any other way than through treatment.

Mr Aston:

In broad terms, we have had better relations with environmental groups recently. We get heavily involved in ventures such as the development of the countryside management scheme through the Northern Ireland rural development programme. There is more liaison.

Mr Bell:

I would encourage you to pursue those developments. If anything is happening, it is happening out of ignorance rather than design, but if there is good practice that can be of help, there is a natural reason why the Ulster Farmers' Union and the Countryside Alliance would want to work together.

Mr G Shannon:

As Wesley said, we have good relations with all the relevant organisations. There are the odd prolonged disagreements on specific issues at the margins of the interests of both sides; hedge cutting is an example. However, it is becoming more difficult for us to accept that, for example, nesting hedgerow birds should be protected into the back end of the season. Apart from anything else, the chances of the second crop of birds surviving into the winter are minimal compared with that of the early birds. It is always the same story: the early bird catches the worm.

Mr Kinahan:

I want to follow up on Jonathan Bell's question. I mentioned this issue when I spoke in the

Chamber on the Wildlife and Natural Environment Bill. Do we need a formal liaison group consisting of the UFU and other groups to meet the Department regularly so that both sets of views are listened to before decisions are made?

Mr G Shannon:

By “formal”, do you mean set out in statute?

Mr Kinahan:

Yes.

Mr G Shannon:

We have fairly good relationships with all Departments on all subjects. A formal arrangement would be worth considering, but there is a limit to the time that people could spend on it. Some problems may need a great deal of discussion and an open-minded approach by all concerned. If the review of the schedules to the Bill were to take place every 10 years, there would be virtually no need for contact. It would be fine to have such an arrangement formalised in statute, but it would be difficult to have those meetings every six months or so. Wildlife developments do not

happen so quickly.

The Chairperson:

Thank you very much for your presentation. If you have any additional information for the Committee, please feel free to forward it to the Committee Clerk.

Mr G Shannon:

Once again, I thank the Committee for giving us the opportunity to give evidence today.