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My Lords,

Committee (Day 2): Agriculture Bill

I am grateful to noble Lords for their contributions on the second day of Committee for the Agriculture Bill on 9 July. I said that I would write on several matters raised.

Forestry Commission land

Lord Clark of Windermere asked about the implications of disposal of public forest and woodland on the rights of access granted to the public. Woodlands provide public goods and require long-term investment. The Public Forest Estate (PFE), of over 253,000 hectares in England, is managed by Forestry England for the benefit of the nation. Originally created through Government investment, expansion in recent years has been slower and funded through reinvesting returns from Forestry England's commercial activities. There is an existing Government commitment not to allow any net reduction in the size of the public forest estate and we continue to commit to this.

Furthermore, almost all land added to the Public Forest Estate is available for the public to access through dedication under the Countryside and Rights of Way Act (CRoW). We dedicate all freehold land in the PFE for public access under CRoW. Forestry England have assured me that the forest Lord Clark mentioned near Newcastle was acquired through leasehold rather than freehold, and therefore we do not have the right to dedicate this land through CRoW.

Countryside education

Lord Adonis asked about raising awareness of rural issues to the general public, including formal education. The options currently available at GCSE level are a culmination of a programme of curriculum and qualifications reform over 6 years, involving consultation with subject experts, higher education institutions and teachers. As part of this process, all qualifications had to demonstrate that they could meet the principles for reform. In the case

of the previous Environmental and Land-Based science GCSE, Ofqual concluded that these principles were not met based on the proposal submitted at the time.

As with other subjects studied in further and higher education, the GCSEs that colleges and universities require for entry to agricultural courses – up to degree level – are the core academic GCSEs that already exist. We have had no indication from higher education of there being any need or great demand for an Agriculture GCSE as a means of providing progress to further study of the subject.

To reiterate what was said in Committee, it is imperative that the next generation understands the connections between farming, the environment and wellbeing; education is a critical component of ensuring this. The Government is rolling out new T levels from September 2020, which will be a high quality, technical alternative to A levels. Designed by employers, T Levels will have real labour market value and currency for students and businesses. T levels in Agriculture, Land Management and Production and Animal Care and Management are currently being developed and will be introduced in 2023.

Equally, high-quality apprenticeships present excellent opportunities to young people seeking to start and build careers in all sectors, including agriculture. There are currently 31 apprenticeship standards approved for delivery in agriculture, environmental and animal care and 6,650 new starters enrolled on an apprenticeship in this area in 2018/19

On the broader point about re-connecting people with rural and agricultural issues, which the Government strongly supports, while we are not directly involved in school or city farms we actively promote initiatives such as ‘Open Farm Sunday’ which is managed by the national charity LEAF (Linking Environment and Farming) and provides an opportunity for the public to visit working farms and gain direct insights into agricultural life. On Open Farm Sunday in 2019, more than 230,000 people were estimated to have visited farms nationwide.

Fire Severity Index and fires

Lord Caithness asked for an update on the Fire Severity Index, in the context of reducing fire risk in the countryside, and Defra’s Wildfire Review. Lord Caithness will be aware that under the CROW Act, the public can walk freely on mapped areas of mountain, moor, heath, downland and registered common land without having to stick to linear paths. However, such access rights may be excluded for the purpose of fire prevention as the CROW Act allows land managers to restrict access to open access land when there is an ‘exceptional’ fire risk, as defined by the Met Office’s Fire Severity Index (FSI).

Fires can, and will, occur at any time of year, either accidentally or most regrettably by an act of arson, and there will naturally be times of the year or times in the cycle of the vegetation when there is a heightened risk of fires spreading. To help inform fire risk management decisions on a national scale, the Met Office has developed the FSI to provide an objective method to show when ‘exceptional’ conditions occur and when fire prevention

restrictions on access land mapped under the CRoW Act should be triggered. Such fire prevention restrictions aim to minimise accidental fires on access land vulnerable to wildfires by suspending open access rights when conditions become exceptional (FSI level 5). The index has been in place since September 2004 and the Met Office is continuing to monitor the results of its application and look at ways of further improving the FSI.

Relevant Authorities such as Natural England, the National Park Authorities and the Forestry Commission, are responsible under the CRoW Act for suspending open access rights on vulnerable land, as necessary. Defra will incorporate the findings and actions from its Wildfire Review into the England Peat Strategy, which will be published later this year.

Lord Caithness also asked how many local authorities are using Public Space Protection Orders (PSPOs) to stop barbecues on farms. The Anti-social Behaviour, Crime and Policing Act 2014 provides the police, local authorities and other local agencies with a range of flexible tools and powers that they can use to respond quickly and effectively to anti-social behaviour. Councils can issue PSPOs to stop people committing anti-social behaviour in a public space. The powers in the 2014 Act are deliberately local in nature, and it is for local agencies to determine whether their use is appropriate in the specific circumstances, as those who work within, and for, local communities will be best placed to understand what is driving the behaviour in question, the impact that it is having, and to determine the most appropriate response. Consequently, the Government does not centrally collate data on the use of PSPOs or have a specific figure on their use relating to the prohibiting the use of barbecues is not available.

However, where the source and cause of wildfire ignition on heathland and peatlands has been captured, barbecues generally account for a small percentage of fires. Recent English wildfire data indicates that, in the minority of cases when a more specific cause of a wildfire was assigned (only 12% of all fires), the main causes were 'camp fires' (49%), land management burns (15%), barbecues (10%), and 'reignited' fires and military training (both 5%) with no other individual causes greater than 3%. However, care is needed in interpreting these findings given the small proportion of overall fires where a specific cause was assigned and potential bias and subjectivity in these assessments.

Littering and fly-tipping

Lord Caithness asked whether on-the-spot fines or an alteration of the law to increase fines would be considered to prevent nuisance littering and fly-tipping in the countryside. I would like to echo the comments made on these issues by Lady Bloomfield of Hinton Waldrist, during the debate. Littering and fly-tipping are serious issues which can blight our countryside and lead to costs on landowners, local authorities and other organisations to rectify this unacceptable behaviour. It is an offence to drop litter and to fly-tip, and that is why councils have legal powers to take enforcement action against offenders. It is up to local authorities to decide how they use their enforcement powers.

Anyone caught littering may be prosecuted in a Magistrates' court, which can lead to a criminal record and a fine of up to £2,500 on conviction. Instead of prosecuting, councils may decide to issue a fixed penalty (on-the-spot fine). These penalties have increased since April 2018 to between £65 and £150. The Government has also extended powers to district councils across England (outside London) to enable them to issue the keeper of a vehicle from which litter is thrown with a civil penalty of between £65 and £150.

Enforcement action should, however, always be proportionate and penalties should not be issued for trivial offences or accidental littering. In September 2019, the Government published improved guidance to councils on the use of their fixed penalty powers for littering and related offences

Anyone caught fly-tipping may be prosecuted, which can lead to a fine of up to £50,000 or up to 12 months imprisonment, or both, if convicted in a Magistrates' Court. Fly-tipping offences can attract a potentially unlimited fine or up to 5 years imprisonment, or both, if convicted in a Crown Court.

The Government has committed to increasing penalties for fly-tipping in its recent manifesto. Defra's 'fly-tipping toolkit', currently under development, will also cover advice on how councils can present robust cases to the courts to secure tougher penalties.

Instead of prosecuting for fly-tipping, councils may choose to issue a fixed penalty. Local authorities have the power to issue fixed penalties of up to £400 for fly-tipping offences, including to those caught fly-tipping and to householders who pass their waste to a fly-tipper. Local authorities also have powers to search and seize vehicles of suspected fly-tippers.

The Government appreciates the difficulty and cost that fly-tipping poses to landowners in both rural and urban areas and it is working with a wide range of interested parties through the National Fly-Tipping Prevention Group (NFTPG) to promote and disseminate good practice, including how to prevent fly-tipping on private land. The Government expects all local authorities to investigate fly-tipping incidents on private land, prosecute the fly-tippers when there is sufficient evidence and recover clearance costs, where possible.

National soil survey

Lord Lucas asked how the soil survey will be set up and funded. The Government is considering the development of a soil monitoring scheme to help inform our other actions, such as the soil health indicator currently in development. This monitoring scheme could be informed by natural capital approaches that feed into the development of soil health metrics. The Government is currently awaiting the outcome of SR20 bids before being in a position to comment on set-up and funding.

I hope noble Lords find this information helpful. I am copying this letter to all noble Lords who took part in the debate and I shall be placing copies in the Libraries of both Houses.

Yours ever,
John