Select Committee on the Natural Environment and Rural Communities Act 2006

Corrected oral evidence: Natural Environment and Rural Communities Act 2006

Tuesday 31 October 2017
12.10 pm

Watch the meeting

Members present: Lord Cameron of Dillington (The Chairman); The Earl of Arran; Baroness Byford; The Earl of Caithness; Lord Cavendish of Furness; Viscount Chandos; Lord Faulkner of Worcester; Baroness Whitaker.

Evidence Session No. 11 Heard in Public Questions 89 - 94

Witnesses

I: Dr Jo Judge, Chief Executive, National Biodiversity Network; Dr Stephanie Wray, President, Chartered Institute of Ecology and Environmental Management.
Examination of witnesses

Dr Jo Judge and Dr Stephanie Wray.

Q89  The Chairman: Thank you both very much for coming to see us. I have to make the usual introductory remarks. You have in front of you a list of interests that have been declared by Members of the Committee. The meeting is being broadcast live via the parliamentary website. A transcript of the meeting will be published on the Committee website and you have the opportunity to make corrections to that transcript, where necessary. Would you like to introduce yourselves and say a little about yourselves? An opening statement is very welcome but we are happy to, perhaps, elicit the knowledge from our questions, whichever you prefer.

Dr Stephanie Wray: Thank you very much. I am Stephanie Wray. I am an ecologist by profession and am president of the Chartered Institute of Ecology and Environmental Management, which is the leading membership organisation for professionals working in the natural environment.

Dr Jo Judge: I am Jo Judge. I am chief executive of the National Biodiversity Network. The network is a partnership for nature and we have over 160 members, predominantly all of the wildlife charities, as well as working closely with CIEEM and statutory body agencies. We are an umbrella organisation aiming to facilitate the collection, collation, sharing and use of biodiversity data.

The Chairman: Thank you very much. As you know, we are looking at the 2006 NERC Act—not only the effectiveness of its clauses but the effectiveness of the institutions that it has set up. My first question is: how well do you think Natural England fulfils its role of carrying out and facilitating conservation and monitoring biodiversity? To what extent have the recent budget cuts affected its ability to do this?

Dr Stephanie Wray: Ultimately, we believe that Natural England is not achieving its core objective, in that it is not achieving its general purpose to ensure that the natural environment is conserved, enhanced and managed for the benefit of future generations as well as the present generation. We can see it is not achieving that because biodiversity is, quite clearly, in decline. We are not achieving our 2020 targets. UK priority species are declining—they have declined 18% since 2010—and many actions for priority species and habitats are identified as being yet to start, and it is 2017.

Clearly, a significant number of those issues are related to Natural England’s budget. We have heard this morning already that Natural England’s budget has been cut by some 60% in recent years. This has led to Natural England, of necessity, having to focus on SSSIs and international sites and not their wider biodiversity duty. They are responding to planning applications with “No comment” rather than “No objection” because they do not have the resources to deal with local issues, whereas local issues are, of course, part of the stepping stones
that build up to a landscape-scale approach to nature conservation. They are relying on standing advice, some of which is clearly out of date, and have been traditionally focusing on the wrong end of the process—so putting a lot of investment and resources into pre-planning or pre-granting of licences and very few resources going into monitoring of the efficacy of mitigation measures put in place and monitoring the effect that is having on our nation’s biodiversity. I would like to say there have been some really good innovations over recent months and years to try to redress that balance in terms of innovation and a way of driving positive change in the organisation, but at the moment we are spending a lot of effort looking at the wrong end if we want to benefit biodiversity.

Dr Jo Judge: I would echo pretty much everything Stephanie has said. We acknowledge that there are some very dedicated and experienced individuals within Natural England who are doing the best they can in the situation they find themselves in. The budget cuts have had a huge impact on Natural England’s ability to achieve its aims. The loss of staff has been a big problem, especially compounded by the fact that quite often those members of staff are the more senior and more experienced. There has been a big loss of that experience from Natural England over the past few years. As Stephanie said, they are not able to discharge some of their functions; they are focusing on some pieces of legislation without looking at species perception and licensing as much and there has not been as much site designation as there used to be. Monitoring is also a massive issue in that very little goes on at the moment. The budget cuts have also impacted on their ability to work with some of their partners and get the additional resources they need from outside Natural England to ensure that they can do their duty, because the cuts in Natural England’s budget have led to cuts in funding for other groups.

Lord Cavendish of Furness: Is it established beyond all doubt that biodiversity has gone down by this specific percentage? Who says? Is it peer reviewed? What is the status? I am rather new to this Committee.

Dr Jo Judge: It is in the State of Nature report published last year by the RSPB, but pretty much anyone who has done anything in ecology and biodiversity has put work into that report.

Lord Cavendish of Furness: Thank you.

Q90 Lord Faulkner of Worcester: One of the partners that Natural England had until 2016 was the local environmental records centres. Those agreements have now been terminated, I understand. They say they are going to use open data in future, or have done since then, which they claim produces better value for taxpayers’ money. Would you agree with that? I suspect you would not from the expressions on your faces. Can you share with the Committee what you think the consequences of that decision have been?

Dr Jo Judge: The local environmental records centres do a huge amount on the ground, working with volunteers, collecting and collating biodiversity data, verifying that and making it so that it is in a position to
be used for planning policy decisions, et cetera. The decision to remove that funding was quite baffling and surprising, given that it was less than a year into a four-year contract and it was done with very little warning or notice. It has impacted on Natural England’s ability to get the data they need, especially at a local level, but also at all levels, because now they do not have the capture resolution data directly from the local environmental records centres, and the data that is generally open is at a lower resolution. That will have a huge impact on, as I say, local decisions, in particular. With anything they do they are not getting the highest-quality data that is available to them. As well as the local records centres, some of the national schemes and societies—the Botanical Society of Britain and Ireland or Butterfly Conservation—also do not readily give over capture resolution data because they are not receiving any funding for it.

Lord Cavendish of Furness: I think the question I was going to ask has been answered. Do you think Natural England has access to sufficient biodiversity data? I think you said no. How does the biodiversity data that Natural England has access to affect decision-making and advice at the local level?

Dr Stephanie Wray: Natural England’s advice at a local level has to be informed by data. They are a science-based organisation; they are giving effective ecological advice. To do that they need both national datasets, the sorts of datasets we see as open source, and specific local records that come through from networks of amateurs in many cases. Those two systems of data have to marry up, so we build a top-down strategy for how we manage biodiversity but we also build from the bottom up as to what we have, where we have it and what are the most effective places to make alterations. Not having such ready access to the bottom-up data and not having the bottom-up data necessarily collated and passed on in the right way because of the limitations on budgets at the local records centres will cause us a problem at a critical time in deciding how we manage the natural environment in the UK.

Dr Jo Judge: I do not have much to add on that.

Baroness Byford: Do you think that the natural capital approach will bring benefits? How do you see that working? Often in the past we have talked about the environment, and we talk about water and soils, particularly, but we do not talk about landscape or well-being. I would be interested to hear your comments on that.

Dr Stephanie Wray: Natural capital is more than the latest in a long series of ecological buzzwords. We have talked about ecology and biodiversity and now you hear people talking about natural capital. It is much more than that; it is a way of understanding all the services the environment provides for people. Using that approach we can be better understood; we can talk to people in clear terms about the things the environment provides for us rather than talking to other scientists about biodiversity. Also, if we couple a natural capital approach with the approach for net gain, moving on from no net loss into net gain for
biodiversity, for the environment, then we start to have a system where we can see real improvements.

**Dr Jo Judge:** Natural capital and net gain can play a real part in helping us to conserve biodiversity. Part of that, as Stephanie said, is that you can talk to developers and economists in terms they understand, which is clarity for them rather than “nature is wonderful and we should preserve it for nature’s sake”—which we obviously should as well. The thing about natural capital is that it takes quite a lot of experience and high-quality data to make sure it is done right. We need to get that part right before we start adding in something else.

**Baroness Byford:** I think that is quite fair—I will not share your thoughts on that. It is interesting that in the observation you have just made you said it will be easier to talk to people. Do you feel, as scientists—which, presumably, both of you are—that you tend not to have the opportunity to talk more to the public in fairly simple language so the public understand the benefits of natural capital? I am sure if you mentioned it out in the streets now there would not be many people who would know what you are talking about. Biodiversity they might and the decline in birds, bees and other things they might, but we need the general public to buy into the importance of what we are talking about at the moment. I wonder if you have observations on that.

**Dr Stephanie Wray:** Yes, I think it is important that we can engage as widely as possible. I started my introduction by telling you that I was an ecologist and by that I mean that I am a scientist in a fairly numerate discipline rather than some kind of lifestyle choice. I think the word “ecologist” has been misappropriated somewhat in that way. I have spent a lot of my career trying to persuade people that what I do is a science—looking at evidence and being focused on that—and somewhere along the line we have forgotten to talk to the general public in very clear terms and explain that water, clean air and soils are important.

**Dr Jo Judge:** Absolutely. Prior to my role in the NBN I was a research scientist on wildlife behaviour. I have noticed, over the past few years in particular, that if you say the word “scientist” quite a lot of people switch off, especially after the whole Brexit campaigns. We need to engage more with the public and be able to explain what natural capital, net gain and biodiversity mean to them, and show them how it affects their everyday life, rather than thinking of something that just scientists, developers or politicians are interested in.

**Baroness Byford:** Do you think part of that responsibility should be with Natural England as well?

**Dr Jo Judge:** To some degree, yes. It is not just the organisations that they work with; they work with individuals, especially for species licensing and that sort of thing. Perhaps having a bit more education in that rather than what is, quite often, a box-ticking exercise would be useful.
Baroness Whitaker: Do you think the natural capital approach would help with day-to-day decision-making at local level and provide a clearer way to account for the value of the natural environment? Is that what you are saying?

Dr Stephanie Wray: I think it can. However, in order to implement it in day-to-day decision-making you need access to qualified, good advice at a local level. That is missing in a lot of local decision-making.

Dr Jo Judge: For it to work well it is not only ecological advice; you need economists involved and people who are involved in infrastructure and planning. If it is done properly, yes, it could be a real help, but we have to make sure that if it is going to be done it is done to the best of the abilities we have.

Viscount Chandos: Staying on natural capital, do you think that public authorities should have a duty regarding natural capital that would extend or absorb the current NERC Act duty to have regard for biodiversity?

Dr Jo Judge: Again, it comes down to resources. At the moment it would be something that public authorities probably would not be able to do because they do not have the experience or the budget. If that was all in place then, yes, I think it could play a part, but it is not an easy or quick thing to do. It might be quite difficult for it to be embedded to that level in day-to-day work.

Dr Stephanie Wray: I would strongly advocate that the duty should be extended to include natural capital; it should be extended to include the principles of net gain as well. It should also be a requirement that local authorities and other bodies, where they require this advice, take that advice, have that advice in-house or procure that advice from another source where they need to, so that they can make decisions in light of the best possible scientific evidence and advice on the impact of their decision-making on the natural environment.

Viscount Chandos: Do you see any downside? Is there a risk that biodiversity would somehow be weakened within a natural capital framework as opposed to on a stand-alone basis?

Dr Stephanie Wray: No, I do not think that is the case. That is because where I come from, as an ecologist, the members of CIEEM are used to juggling lots of different, complex requirements within a complex ecosystem. Yes, it is difficult to keep all the plates spinning but, no, it is not impossible.

Dr Jo Judge: I would agree with that.

Lord Cavendish of Furness: In rather longer a life than I care to admit, I have noticed that science sometimes goes unchallenged because a scientist said, “Here is the data”, when the empirical evidence is ignored. What capacity do you have for having iteration processes where you can say, “The evidence on the ground seems to conflict with data. Can we
look at it again?” What is the scientific approach?

**Dr Stephanie Wray:** That is a basic tenet of our approach in monitoring biodiversity and impacts on the natural environment. When you seek to manage a site for nature conservation benefit, you will put in place a series of management prescriptions. It might be about how you cut grass with hay cuts and aftermath grazing. You will put in place a monitoring programme, you will look at how the botanical biodiversity changes and, if you see that things are not progressing in the way you thought they might or in the way that best supports increasing biodiversity, you will change the management prescription. There is a feedback loop from monitoring.

**Dr Jo Judge:** Any science should welcome any challenge to the perceived norm. You have to be able to look at things and say, “This isn’t going quite the way we thought it was”, and have another look at it.

**The Earl of Caithness:** You have answered the question I wanted to ask. I am going to ask a more general question. If you were the Secretary of State with the idea of this 25-year environment plan, what would be your inclination to improve the current situation? For instance, would you include natural capital? From what you have said, that is going to be a huge training and education programme. Would you build on the present system with Natural England? How would you get more and better data and scientific advice on which to base your recommendations to the country?

**Dr Jo Judge:** A simple question. I think the 25-year plan should definitely include natural capital and net gain—perhaps not as something we start immediately but as something we work towards. With Brexit we have an opportunity to improve the legislation surrounding biodiversity, nature and the environment as a whole. We need to strengthen, especially in England, the legislation we already have and include scrutiny, monitoring and evaluation of what is happening. That all needs time and resources. I have forgotten the rest of the question. I did not write it down. I will pass over.

**The Earl of Caithness:** I am not surprised.

**Dr Stephanie Wray:** If I was Secretary of State—and since Mr Gove has already told us he is a “shy green”, I am sure he is thinking along the same lines—I would definitely propose a new Environment Act. We have talked about that this morning, building on the provisions of the EU regulations and elements of the common agricultural policy and common fisheries policy to enhance and deliver real benefits. I would look to draw on the lessons learned in Wales and Scotland and develop an ambitious strategy to protect our most vulnerable habitats and species. I would use the Lawton principles, as the Government have suggested they intend to. That could be based on the framework of Defra’s 25-year plan. As far as I am concerned, the 25-year plan is still a unicorn because nobody outside of Government, I believe, has seen it yet. If and when a 25-year plan is produced, that could be an opportunity to work on elements of natural
capital and net gain if widened to include the devolved Administrations and consulted on widely. I would look for an approach to land management and management of marine resources which would deliver public benefits, public goods for public money, and look to restore damaged ecosystems. For that we need good data. We need data about where the most effective actions can be put in place. Finally, I also agree with earlier comments today that we need a strong enforcement body and office for environmental regulation.

**The Earl of Caithness:** One quick follow-up question: would you keep Natural England or would you amalgamate Natural England with part of the Environment Agency and take the enforcement powers into a separate body?

**Dr Stephanie Wray:** That is a very interesting question. There are a number of different ways you could structure it. The regulation and enforcement body I am talking about is at a UK framework level, so replacing European Union functions. That would be a replacement for or iteration of JNCC rather than Natural England and you would require organisations such as Natural England to function at devolved Administration level.

**Dr Jo Judge:** I agree. There are several ways you could slice it up, but I am not quite sure exactly how you would do that. A body that is seen as independent that does the monitoring and enforcement is vital if we are going to make a difference.

**Lord Cavendish of Furness:** Can I ask why net gain is seen to be so far off? Good practice produces instant results, almost, does it not? One thinks of river management. Surely, net gain could be achieved with good practice in much shorter order than you have suggested.

**Dr Stephanie Wray:** I think net gain is getting a lot of traction now in, for example, infrastructure development and some more residential development, and so forth, through the planning process. The land affected by the planning process and infrastructure development is relatively small compared with land that is affected by food production, for example. If we apply those principles of net gain to how we incentivise farmers and landowners, we have massive opportunities, by following good practice, to get real improvements, yes.

**The Chairman:** Can I drag you back a moment? In your discussions on natural capital there seemed to be a divergence of opinion between you as to whether local authorities could take on this whole concept.

**Dr Stephanie Wray:** There is.

**The Chairman:** Can I take you back one step further and on to the biodiversity duty? That already sits uneasily with the local authorities; they are not really making it work effectively and nobody seems to be driving it. What needs to change to make that work? Is it the wording, as in Wales and Scotland, or is it some sort of reporting mechanism or
accountability?

**Dr Jo Judge:** At the moment, as it stands, there is a duty to take biodiversity into consideration but there is no guidance on what that means. There is no reporting on it and no real incentives or disincentives for taking biodiversity into account. Because there is no reporting, we have no way of seeing what impact the NERC Act has had on biodiversity. I feel it needs to be strengthened. Scotland is slightly better and further in conservation, but the Environment (Wales) Act that came in last year takes it further with not only taking care of but enhancing biodiversity. We need to bring that into the legislation for England. I also think we need to have a reporting mechanism, but it has to be an effective reporting mechanism that has checks and balances to see whether people are doing what they are supposed to be doing.

**Dr Stephanie Wray:** I believe the existing duty is very weak. One can have regard to something and take it into account and weigh it in one’s decision-making and do exactly the opposite, on the balance of the considerations. I do not believe the duty, as worded at the moment, promotes the protection or enhancement of biodiversity. The wording would need to change. Guidance is essential. The guidance Defra produced and then withdrew went some way to helping authorities understand how to implement it. It is quite a nebulous concept if it is not part of your day-to-day job, and they needed guidance on what it meant and how they could implement it. If you put those things in place—if you strengthen the wording and guidance on what is required, if you provide a requirement for people to take advice from experts on it and if you have a reporting mechanism—you would, presumably, have a much more effective duty.

**Baroness Whitaker:** I see, according to your very interesting evidence, that we have a new Act compensating for the loss of EU oversight. I think I heard we have a new independent structure. What about new legal powers? I have heard about stronger reporting mechanisms, but do you think we should have different kinds of sanctions? What else?

**The Chairman:** This is post Brexit we are talking about.

**Baroness Whitaker:** Post Brexit to compensate for the loss of EU oversight.

**Dr Jo Judge:** We need both incentives and sanctions. At the moment, there is no real bite to our biodiversity legislation. We need to change that, but it does not have to necessarily all be by sanctions; it can be incentives. If we are going to strengthen the legislation, as has already been said, we need to make sure there are guidelines for what people are meant to do and what is considered acceptable in terms of what they are doing for the environment and biodiversity. Having those powers in place is the first step, but you also need to make sure that the right amount and kind of monitoring is happening to ensure that people are doing what they say they are doing and, if they are not, for there to be sanctions, which I do not think there are at the moment.
Dr Stephanie Wray: Yes, I agree that a range of measures are necessary and a new body such as an environmental regulator would be able to replicate the sorts of functions of the EU through providing informatives and providing the equivalent of what would be an infraction notice. Perhaps the planning courts could be extended as the planning and environment courts to deal with the role of the ECJ.

The Chairman: What role would your new independent environment commission play in all this?

Dr Stephanie Wray: They would be holding the Government to account through how we extended, interpreted and developed new environmental legislation, and would be monitoring the implementation of that legislation through the devolved Administrations.

The Chairman: A final question, up in the air: what one recommendation—only one—would you want us to put forward in our report?

Dr Stephanie Wray: Probably the biggest change in this report would relate to strengthening the biodiversity duty through incorporation of principles of natural capital and net gain.

Dr Jo Judge: I would agree with that but, since it has already been said, I will give you another one. Underpinning all this we need high-quality data to be able to do any of this. It is making sure that biodiversity collection, sharing and use are properly valued and appropriately funded, and built into pretty much everything we do.

The Chairman: Great.

Baroness Byford: As we are now looking at a digital age and everything is so much more easily accessible, do you not think it will be easier to collect data? What is it about collecting data? It is there; it is not as if you have to write screeds out.

Dr Jo Judge: The vast majority of the biodiversity data in the UK is collected by volunteers rather than professionals. I hope they would not mind if I say they are generally of an older demographic, shall we say, and some of them are very tied to writing things down in their notebooks and either putting it in a spreadsheet or passing it on to somebody else to deal with. With the technology and the Acts we have coming, there has never been an easier time to collect that data and make sure you have accurate data, to a certain extent. They also mean that you have to have a validation process because if you have people who have less expertise in making records you need to make sure that the records are right. Using data that is wrong could have a negative impact rather than a positive one. With the data-sharing infrastructure that the NBN provides, for example, yes, with technology we should be able to get more of it, especially when we are going to have remote sensing data from drones, potentially. A DNA sequencer that you can plug into your phone is being developed. That will make things easier to record. There is still this large amount of data that is recorded in a more traditional way. There are also
issues about the fact that, if the people who collate and curate that data are not properly funded, they do not make that data openly available at a high resolution because they rely on the services they can provide based on the data that they have.

**Baroness Byford:** Before I pass it over to your colleague, one of the questions I wrote down earlier was: are there too many organisations dealing with various aspects of biodiversity that makes this quite a problem? I add that for you. I do not mean to be critical of them but, as you have said, there is a huge amount of people collecting various data from different places.

**Dr Stephanie Wray:** There are, and the benefit of a national network is to try to bring all those datasets together. That said, a lot of conservation organisations are fairly collaborative.

**The Chairman:** We will end on that note. Thank you both very much for coming in. It has been a very good evidence session. Thank you.