Select Committee on the Natural Environment and Rural Communities Act 2006

Corrected oral evidence: Natural Environment and Rural Communities Act 2006

Tuesday 5 December 2017

11.05 am

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; Lord Faulkner of Worcester; The Countess of Mar; Baroness Whitaker.

Evidence Session No. 21 Heard in Public Questions 177 - 184

Witness

I: Dr Tony Grayling, Director of Sustainable and Business Development, Environment Agency.
Examination of witness

Dr Tony Grayling.

Q177 The Chairman: Good morning, Dr Grayling. Thank you very much for coming to see us. It is very kind of you to spare the time. 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 taken and published on the Committee website and you will have the opportunity to make corrections to that transcript where necessary. Would you like to introduce yourself and your role in the Environment Agency?

Dr Tony Grayling: Good morning. It is a pleasure to be here. My name is Tony Grayling. I am the director of sustainable business and development for the Environment Agency.

The Chairman: Thank you very much. Could you start by describing where responsibilities for the Environment Agency and Natural England overlap, also telling us more about the interactions between your two organisations on various individual operations, both at a lower level and at higher levels, please?

Dr Tony Grayling: Of course. In fact, the amount of overlap between the work of the Environment Agency and Natural England is relatively limited to a few areas. As part of an exercise for the organisation, we looked at a set of about 50 activities that the Environment Agency undertakes in the course of carrying out its duties and only about half a dozen of those overlap with activities that are also undertaken by Natural England. Even within those, our roles are, generally speaking, complementary rather than conflicting.

There are some areas of overlap. For example, we are both statutory advisers in the spatial planning system, both organisations are involved in monitoring the environment—for example, the marine environment—and both are involved in local engagement. In areas where there is common ground and overlap we work particularly closely together. For example, if you take spatial planning, we have a way of working which is badged as single voice, whereby we try to represent to the customer a single integrated voice on behalf of Defra. That includes other Defra bodies beyond the Environment Agency and Natural England.

We have increasingly sought to collaborate. I suspect we will come on to discuss this more, but we now have common area boundaries. We organise our work in 14 operational areas across England, and those are common between the Environment Agency, Forestry Services and Natural England. We have developed area integrated plans, which are joint plans between those three organisations as to how they will carry out their work locally. Likewise, at national level we collaborate. There is the joint operations leadership team, whereby the leaders of our operational businesses come together at national level to discuss areas of collaboration and common interest.
Lord Cavendish of Furness: There is no need to repeat some of that in response to my question but, specifically, how have the recommendations from the 2013 triennial review changed the way that Natural England and the Environment Agency deliver their work?

Dr Tony Grayling: Yes, there has been a consequence of the findings of the triennial review and the action plan that arose from it. Those have been further strengthened by the initiatives that followed the spending review in 2015 where Defra and its constituent bodies had to manage quite significant reductions in our grant in aid funding. We have a situation where we share offices, where we can, where our back office services are shared. As I described, we organised our operational districts in England so that there are now 14 common areas between Natural England and the Environment Agency. We have developed local area integrated plans between Natural England, forestry services and the Environment Agency for all 14 areas. There is, likewise, similar collaboration at a national level. There have been quite significant changes.

Lord Cavendish of Furness: If you are looking to give further protection and an effective service to protect the environment, can you think of any more collaboration you would be looking at?

Dr Tony Grayling: We are constantly looking at ways in which we can collaborate further. An example would be our area integrated plans, but they are not as fully developed as they might be. They have been formed from joining together the existing local plans for each of the organisations. Now we have got that far you can take it a step further, perhaps, to develop more integrated environmental plans for each of the 14 areas which do not involve only those three organisations but other bodies within the Defra group, and also other partners, including local authorities, wildlife trusts, and so forth. There are always ways in which we are looking to collaborate further, both from the point of view of achieving efficiencies and cost savings and of synergies and delivering more for the environment.

The Countess of Mar: The Committee has received a lot of evidence that suggests that Natural England’s capacity has decreased since 2010, largely due to funding cuts. Has this affected the way the Environment Agency and Natural England work together? Have you noticed a decline in Natural England’s capacity? If so, has this led to greater demands being placed on the Environment Agency?

Dr Tony Grayling: Yes, it has had a consequence. Our grant in aid funding has been similarly reduced in the same period as Natural England’s. That means, as I have described, we have tried to achieve efficiencies that protect the front line by working together, by combining our administrative back office services. Instead of replicating those in each of the organisations, we have a single set of back office services. It has meant that Natural England and we have had to find other ways of doing things more collaboratively and in a more focused way because, naturally, when you have less resource you have to focus on the highest
priorities and the biggest environmental risks, and both organisations have sought to do that. We continue to work very effectively together. Indeed, it has become more and more in our mutual interests to ensure that we do, to ensure that we avoid duplication and work as closely together towards common aims as we can. We do that. An example of that would be that both organisations want to seek environmental outcomes through the land use planning system. Particularly at the more strategic level—the level of, let us say, spatial plans, local plans—we join up to influence those plans.

Q180 **Lord Faulkner of Worcester:** I would like to ask you about the Environment Agency’s duty to promote the use of inland waterways and canals and, more generally, access to the countryside. We have heard some witnesses saying that your resources have been cut in this area and you do not have anybody working at a local level to do that. Could you comment on that? Could I ask how you are collaborating with Natural England to achieve access to the countryside?

**Dr Tony Grayling:** Yes, I will seek to answer those questions. The main way in which the Environment Agency promotes enjoyment of the countryside, including particularly its rivers and lakes, is through the promotion of angling. We have a quite active programme in that regard and we work in partnership with the Angling Trust to do that. Beyond that, to be honest, I think we have scaled back our activity in terms of promoting recreational use of the waterways, and that has been a direct consequence of reduction in grant in aid funding. We have partly stepped back so that the Canal & River Trust can step forward, because Defra also provides funding to the Canal & River Trust, which has a big interest in this.

In relation to working with Natural England, the most significant way we are currently doing that is by supporting their work on developing a coastal path around England. As I have described, we have very much had to focus our limited resources on one or two things rather than the general promotion of recreation.

**Lord Faulkner of Worcester:** Are there areas where the objectives of your two bodies diverge? Does Natural England have a set of objectives in this area which is different from the Environment Agency’s?

**Dr Tony Grayling:** As I understand it, Natural England has a broader remit to promote enjoyment of and recreation in the rural and natural environment than the Environment Agency. I would say those roles are entirely complementary. I do not think they contradict each other.

**Lord Cavendish of Furness:** You mentioned angling, and I am familiar with your contribution to that. You will be aware of the conflict on rivers— I declare an interest—between paddlers, canoeists and angling. There is room for us all. I wonder if you felt there might be a role for your organisation trying to act as honest broker in resolving this. It has quite a big environmental impact.
Dr Tony Grayling: In so far as we are a navigation authority on some waters, of course we have to find the right balance for those areas. I do not think, in general, it is our responsibility to be that broker. Indeed, I think you will probably be aware that there have been ongoing discussions between ourselves and the Canal & River Trust about transferring our navigation responsibilities to that organisation, which may come to fruition at some time in the future.

Baroness Whitaker: First, I declare a new interest as chair of the Newhaven Coastal Communities Team. My question is about biodiversity. Can you tell us what the Environment Agency does to fulfil the NERC Act duty to “have regard” to biodiversity? What does the EA do to support other public authorities subject to the duty?

Dr Tony Grayling: First, we consider it a very important duty. Part of the fundamental purpose of the Environment Agency is to protect or enhance the environment so as to contribute to sustainable development. Protecting and enhancing biodiversity is extremely important.

Baroness Whitaker: Why do you think it is important?

Dr Tony Grayling: For some very fundamental reasons that human welfare is dependent on biodiversity and the natural environment for life itself and the quality of our lives. We need to maintain and improve functioning natural ecosystems if we are going to carry on having a good quality of life or an improved quality of life. For me, it is a very fundamental aspect of sustainable development, which is the core purpose of the Environment Agency.

The way in which the Environment Agency discharges that responsibility is done at different levels. We make sure that enhancement and protection of biodiversity is built into our policies and programmes. You would see that through the river basin plans that we develop for each river basin in England, because we are the competent authority for the implementation of the water framework directive. Those plans are very much about bringing rivers, lakes and other bodies of water up to a good status. You can also look at our flood and coastal risk management work through which we seek to achieve environmental outcomes as well as flood protection outcomes. For example, over the last six years or so we have either improved or created about 10,000 hectares of habitat across England in association with our flood and coastal risk management work. You can achieve multiple objectives, for example, by creating natural flood storage areas. You enhance flood protection, improve biodiversity and indeed create opportunities for enjoyment of the environment and recreation.

If you go down a level, some of our responsibilities are to permit various industrial and other activities. We are very mindful of the duty to have regard to improving biodiversity when we do that. Indeed, there is a specific section in our decision document on permits and licences which says how we have taken that duty into account.
To go on to the other part of your question about how we work with others, as I mentioned, we are a statutory adviser in the land use planning system. In giving our advice to local authorities and developers in relation to the built environment, we make sure that we give advice that helps to protect or enhance biodiversity, complementary to Natural England’s responsibilities. We have a particular responsibility for aquatic biodiversity in that regard. We also work in partnership with other organisations, including non-governmental organisations, wildlife trusts, and so on, on physical on-the-ground projects to protect and improve the natural environment and the biodiversity it holds.

Baroness Whitaker: We have had evidence that data retention is of particular importance in this area. Is there anything particular that the Environment Agency does in that regard to help other local authorities?

Dr Tony Grayling: Absolutely. We collect and publish a wide range of monitoring data about the state of the water environment, in particular. We use that information to inform our own work and statutory duties, including permitting and licensing, but that data is also available to others to help them make the right decisions as well.

The Chairman: Do you have to report on your duty to value the biodiversity? If so, to whom?

Dr Tony Grayling: No. At the moment, there is no specific requirement for us to report on that duty, other than in the sense that, in general terms, we are, of course, held to account by the Secretary of State for Environment, Food and Rural Affairs. He will ask us about our work in relation to the natural environment and biodiversity in holding us to account. There is no specific duty for us to compile a report on the discharge of that particular duty.

The Earl of Caithness: Following that up, should there not be?

Dr Tony Grayling: There is a case for that. You would need to make sure that it was not too bureaucratic in the way that it has to be discharged, but, yes, there could be some value in specifically reporting on how that is discharged.

The Earl of Caithness: I want to follow up on Baroness Whitaker’s question when you said you were giving advice. You are in the very difficult position of being an adviser and an enforcer. Should not those roles be split?

Dr Tony Grayling: I think those roles go together quite well. Inevitably, we have to develop the technical expertise to be able to inform our statutory permitting role and ensuring compliance and enforcement of the conditions we place within permits and licences. It would be a bit of a waste if we did not use that expertise to give good advice, both to those people who are seeking permits and licences from us and more widely. Of course, one of the chief responsibilities of the Environment Agency is to be one of the primary sources of advice to government on the
development of environmental policy. We take that responsibility seriously. I do not think there is a conflict of interest in that. Where there is a potential conflict of interest is on the occasions where, as an operator, the Environment Agency is required to be licensed by itself, if you like. For example, if we are dealing with flood risk management assets, often those require permits that we are also responsible for. You have to keep clear Chinese walls, if you like, between those activities to ensure that there is no bias in permitting decisions in those situations.

Q182 **The Earl of Caithness:** Moving on to my main question, data is hugely important for protecting the natural environment and helping our biodiversity. Do you think that local environmental records centres are doing a good job? Why have you continued your agreement with them?

**Dr Tony Grayling:** The short answer is yes, we think they are doing a good job. We invest something like £400,000 a year in gaining access to the data that local environmental records centres provide. We use that data, which is wider and more comprehensive, alongside the data I was describing earlier that we get from our own environmental monitoring. In fact, all our permitting staff have access to both those sets of information through our geographical information systems, and that very much informs our work including our statutory roles in permitting and licensing. We consider we get good value out of that and we need both sets of data—both the data we collect and the data that others collect.

**The Earl of Caithness:** Some of the evidence that we have received shows that the Government are not getting the right data. Do you think that is a fair criticism?

**Dr Tony Grayling:** There is always room for improvement. You continuously need to stand back and check whether the right monitoring is being undertaken by whoever, in the first place, to get the data we need. At the moment, one of the exercises the Environment Agency is undertaking is what we are calling the strategic review of monitoring. That is both from a perspective of efficiency—trying to make sure that our monitoring is more efficient—and ensuring that it meets our current and future needs. Over time, understanding of the environment evolves and environmental priorities evolve with that, and you need to make sure that your data and the monitoring that provides it are fit for purpose, in that sense. I cannot give you specific examples but I am sure there is room for ongoing improvement.

Q183 **The Earl of Arran:** Moving on to planning, several witnesses have told us that resource constraints, better known as cuts, mean that Natural England is no longer able to provide bespoke advice on planning consultations, with greater reliance being placed on standardised guidance. In your opinion, has this had any noticeable effect on the input you are required to provide on local plans and planning applications?

**Dr Tony Grayling:** It is a very good question. The Environment Agency, as I was describing earlier, is in a very similar position in that our grant in aid is also being reduced. That includes grant in aid for our statutory
advisory role in the spatial planning system. The way in which it has affected both organisations is that we have had to take a more sharply focused approach that is risk based. Both organisations continue to provide bespoke advice for developments that we consider a higher risk to the environment, but, yes, in the case of lower-risk developments, we both provide standard or standardised advice to meet that need.

We have had to change the approach that we have in a number of different ways. Both organisations now seek to charge for what may be described as a premium service, so going beyond the minimum statutory responsibility. We have to offer a service to developers where they can get a higher level of bespoke advice from us. Both organisations have also sought to try to go further upstream in the planning system. The greatest impact can be had if you influence land use planning at a strategic level. If you can influence the spatial plan, the local plan, so that it specifies that you will have the right sorts of developments in the right places, you do not have to deal with problems on individual planning applications because they are the wrong developments in the wrong place. Both organisations focus on the bigger and more strategic housing and economic developments where the risks are higher and the potential benefits of getting it right are also bigger. You cannot deny that there has been an effect of funding reductions, but we have done our best to mitigate that and, as far as we can, overcome it. I should say that we collaborate at, particularly, influencing planning at the strategic level on major developments.

The Countess of Mar: I think almost immediately of housing developments built on flood plains. That is not the direct question but it is background. We have heard repeatedly that Natural England do not have enough people on the ground who know the local community and the lie of the land. Does the same happen with you? Do you have enough foot soldiers as opposed to generals?

Dr Tony Grayling: One of the great strengths of the Environment Agency is that we have foot soldiers who genuinely know their local patch. We are not an organisation of boffins like me who sit in head office. Yes, we still have a strength in that regard. We are also fortunate in that quite a lot of our work is charge funded. Our permitting and licensing work is funded because the people who apply for permits and licences have to give us a fee to secure their application and, if they get the licence, they have to pay what are called subsistence fees on an annual basis. We get quite a lot of income from that. We still have quite a large presence at local areas on the ground.

The Countess of Mar: How do people get away with building on flood plains?

Dr Tony Grayling: Of course, that is beyond the terms of this inquiry. The planning guidance says, “No inappropriate development on flood plain”. We would say there is not much inappropriate new development on the flood plain. In the overwhelming majority of cases, our advice, as a statutory adviser on the planning system, is reflected in the planning
decisions made by local authorities. I am not saying there is no problem, because sometimes, for other reasons, in a very small minority of cases, the council may consider that there are overriding factors. Even then, we would seek to give advice that, at least, mitigates—by the way in which the buildings are designed—the flood risk. Of course, we have a lot of properties historically at risk of flooding, and that is getting worse over time because of our changing climate, as a consequence of human activities causing global emissions of greenhouse gases.

**The Countess of Mar:** I am sorry, that was a bit of a diversion.

**Baroness Byford:** I am very glad that Lady Mar raised that issue. Can I move back to planning and planning advice? Clearly, the evidence we have received from a lot of people who have come to give evidence to us is that at local level the people within the planning office are not supported, perhaps, in the way that they hope to be. Often when plans come in, the comment from, I suspect, you—but you will clarify that—and certainly Natural England has been “no comment” rather than a direct comment, which then leads to lots of other things happening as a result. Does that affect your agency?

**Dr Tony Grayling:** Our approach is risk based. Sometimes, if we consider the risk is very low, we may not comment. If we consider it is low but a fairly standard issue we will refer the local authority to our set of standard advice that applies in those circumstances. If we consider that the development proposed, potentially, has a high risk to the environment, we will provide bespoke advice on that planning application. That is very similar to our colleagues in Natural England.

**Baroness Byford:** Earlier you referred to the need to have regard to biodiversity, and the same would apply with that.

**Dr Tony Grayling:** Yes, that is correct.

**Baroness Byford:** That, presumably, you give advice on, or do you not? That is Natural England.

**Dr Tony Grayling:** In some circumstances, we would give advice. Particularly where we think that a development that affects a main river could have significant effects on aquatic biodiversity, we will give bespoke advice. In a lot of circumstances on biodiversity we would give standard or standing advice and our role would be complementary to the advice from Natural England, which would be more focused on terrestrial biodiversity.

**Baroness Byford:** I do not know if you would agree, but the difficulty is that, although local authorities have to “have regard to”, there is no power within that. Do you think there should be greater power to try to encourage them to do what they should be doing with regard to biodiversity?

**Dr Tony Grayling:** It is a duty on all public bodies. Local authorities have to be able to demonstrate that they have discharged that duty as
well, and that includes the planning decisions they make. If they are not able to show they have taken that duty into account, the decisions could be challenged. As we were discussing in relation to a requirement to report on the discharge of that duty, the Environment Agency and, I think, Natural England are interested in whether it could be further strengthened. We are interested in the concept of net gain, which is an increasingly prevalent idea for the land use planning system and in the context of the development of the Government’s 25-year environment plan. We would like to see circumstances where, generally speaking, there was a duty on developers to have a positive impact on the environment, including its biodiversity.

Baroness Byford: I have two more quick questions. Earlier you referred to spatial plans. With the regional set-up having gone, how do you feel that your agency is managing to have a direct input on plans? Presumably, it will have to go to the very local level now as compared to previous years when you were able to go much more regionally and have a much wider view.

Dr Tony Grayling: We have put quite a lot of effort into influencing local plans. There are, of course, as you suggest, more of them than there were in terms of regional spatial strategies. In terms of prioritising the work, it is the right level to influence, first, because it prevents problems further downstream. We still put a lot of effort into that and, as our funding has reduced, we have made sure that that activity has been protected. You may have asked a supplementary that has now slipped my mind.

Baroness Byford: No, that is fine on that. It was how you overcome the fact that there used to be regional planning, whereas now there is not that format and things such as landscape or other things get lost.

Dr Tony Grayling: Some issues go beyond an individual local authority boundary. One thing that is very important to us is the duty that local authorities have to work together on issues that cross their boundaries. We would certainly look at issues on that greater spatial scale—for example, the river catchment scale, because that is the scale at which the water environment works. Our colleagues in Natural England would say the same about landscapes. We are very mindful of the recommendations that the Lawton report made about the connectivity of the environment to make sure it is healthy and resilient. Part of our role is to encourage local authorities to work together when developing their spatial plans, as they are required to do.

Baroness Byford: Thank you. My last one is slightly wider of the question. I know you have laid down the things you have to do, but you also manage some of the countryside. How and when do you decide that that is an agency matter as compared to the land manager or the farm-owning person of that land? Have you seen a change in that relationship in recent years?
Dr Tony Grayling: As a landowner, the Environment Agency owns something like 24,000 hectares of land around the country, which is not insignificant. That land is primarily associated with flood and coastal risk management. With a few exceptions, on the whole, we are not more generally land managers. We need to practise what we preach. One of the things we now do is produce natural capital accounts for our organisation. We have made an assessment of the services that those 24,000 hectares of land provide to people and the economy and where possible—because you cannot in all cases—we have quantified those services. We now publish that as part of our annual report, in a non-statutory way, and seek to ensure that overall the natural capital value of the assets we manage is going up rather than going down. I do not know if that helps.

Baroness Byford: That is very helpful. It is trying, in my own mind, to balance the reduction you have in the amount of money that has been allocated.

Dr Tony Grayling: We are not quite in the same position as Natural England, which owns much larger areas of land through its national nature reserves.

Baroness Byford: Thank you very much.

The Countess of Mar: We have heard a lot of evidence that Natural England has lost its scientists, its landscape specialists. Do you have the same problem? Is there any sharing between you of these specialisms, especially when it comes to biodiversity management?

Dr Tony Grayling: Technical expertise is an absolutely fundamental part of the Environment Agency’s work. We seek to protect it in circumstances where our grant in aid funding has been reduced. We also seek to ensure that there is resilience. Sometimes you can end up in a situation where particular specialisms end up in a few individuals who, sooner or later, will reach retirement age. You have to make sure they train the next set. Technical expertise is absolutely fundamental. That ranges from expertise in fish biology and engineering expertise to building and maintaining flood defences. We have placed and succeeded in placing a high priority on that.

The Countess of Mar: Do you share at all with Natural England?

Dr Tony Grayling: On the whole, our responsibilities are complementary rather than overlapping. Our particular areas of expertise and specialism would not overlap much with those of Natural England, but we share expertise at the more general level. For example, both organisations are going through a learning experience on how to apply a natural capital approach. That is the notion that you understand the services that the natural environment provides to people and use that understanding to underpin the decisions you take. That is not easy. We definitely share expertise in that regard. In terms of deep specialisms, on the whole, we have different ones from those of Natural England.
**The Earl of Arran:** I know this is not on the agenda, but how much are you going to mind leaving Europe and becoming master of your own destiny?

**Dr Tony Grayling:** One of my responsibilities is to lead the Environment Agency’s work on EU exit. There is no doubt that a very large majority of the work we do is currently governed by EU regulations, directives and policy measures. Obviously, we want to see things, if anything, getting better as a consequence of leaving the EU. For us, it is not defending the status quo—as we know, the withdrawal Bill will ensure that, at least, immediately after we have exited the EU we will pretty well have the status quo in terms of environmental law and standards—but improving on that. We could go on for a long time, but if, for example, you take the common agricultural policy, we think it is possible to have something that is better.

**The Earl of Arran:** I am getting the feeling you are thinking more pluses than minuses.

**Dr Tony Grayling:** There are risks and opportunities and our job is to mitigate the risks and maximise the opportunities. That is how I would approach it.

**The Chairman:** Thank you very much, Dr Grayling, for coming to see us.

**Dr Tony Grayling:** You are very welcome. Thank you.