

## Natural Environment and Rural Communities Bill Briefing for Second Reading, House of Lords

Wildlife and Countryside Link (Link) brings together voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management and food production and encourage respect for and enjoyment of natural landscapes and features, the historic environment and biodiversity. Taken together, our members have the support of over eight million people in the UK and manage over 476,000 hectares of land. This statement is supported by:

- Bat Conservation Trust
- British Mountaineering Council
- Buglife – the Invertebrate Conservation Trust
- Butterfly Conservation
- Campaign to Protect Rural England
- Council for British Archaeology
- Council for National Parks
- Friends of the Earth England
- Herpetological Conservation Trust
- Ramblers Association
- Royal Society for the Protection of Birds
- The Wildfowl & Wetlands Trust
- The Wildlife Trusts
- Woodland Trust

Link welcomes the publication of the Natural Environment and Rural Communities Bill and supports the establishment of Natural England as a powerful champion for our natural environment. The draft strategy, corporate plan and funding of Natural England are all crucial issues to Link's members, which we hope will be debated at a later date. This briefing, however, concentrates on the Natural Environment and Rural Communities Bill.

### Part 1 – Natural England

1. Link welcomes the Government's comments that Natural England should be an "independent and powerful guardian of our natural heritage that will be responsible for conserving and enhancing England's rich and diverse natural environment"<sup>1</sup> and is particularly pleased that the focus of Natural England remains on the natural environment, as reiterated by the Government in the Bill's second reading in the House of Commons. Link has consistently called for Natural England to be a strong environmental champion with appropriate powers and duties to continue and enhance the work of its confederated partners. Link therefore strongly supports clause 2(1) and believes it is crucial for Natural England to retain this prime focus on the natural environment.
2. Link believes that maintaining Natural England's environmental focus will allow for the development of a vibrant natural environment capable of adaptation to the inevitability and pace of climate change. This will require Natural England to be fully engaged in spatial planning, both at a regional and Local Development Plan level including case work. A vibrant robust and diverse natural environment will also in turn provide the foundation for strong and sustainable local economies. In this way, Natural England will contribute to sustainable development and social and economic well-being in ways which support the protection and enhancement

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<sup>1</sup> Extract of quote from Rt Hon Margaret Beckett MP's opening remarks during the Second Reading of the NERC Bill, 6<sup>th</sup> June 2005 (Official Report, 6/6/05; col 1007).

of the natural environment. Thus, sustainable development will be achieved through the sum of Government policy as a whole. Link therefore believes that it is vital that Natural England retains its purpose as set out in clause 2(1).

3. The maintenance of Natural England's purpose, as set out in clause 2(1), is especially important given the number of statutory bodies which already hold statutory responsibility for the delivery of social and economic pillars of sustainable development. A leading example is the Regional Development Agencies (RDAs)<sup>2</sup>, which state one of their five purposes as being "to contribute to sustainable development". Maintaining clause 2(1) will ensure that legislation for Natural England complements that which established the RDAs. This, read together with the mission of England's RDAs<sup>3</sup>, which focus only on "sustainable economic development" provides a rationale for Natural England to be responsible for the environmental pillar of sustainable development. Any trade offs that need to be made between environmental, social and economic benefits should be made and explained openly by Government through due process such as a public enquiry. Government would therefore be acting with full consideration of all relevant parties and not solely one NDPB.
4. Link welcomes the duty that Natural England will have to protect biodiversity. Link also considers that a 'duty to protect' should be applied to the landscape in clause 2(2)(b) as it will ensure that the current statutory duties of the Countryside Agency set out originally in the National Parks and Access to the Countryside Act 1949 to "the preservation and enhancement of natural beauty in England, both in areas designated as National Parks or AONBs and elsewhere" will be transferred in their entirety to Natural England. This existing duty should be extended to include specific reference to the wider countryside outside nationally designated landscapes which is presently the responsibility of the Countryside Agency, but which is omitted from the Bill.
5. Natural England's independence is crucial to ensure its credibility amongst stakeholders and Link is pleased to see that as a result of the pre-legislative scrutiny the Bill has been amended in a number of areas to improve this accountability. In particular, the additional detail on the membership and composition of the Board (Schedule 1, clauses 3 and 4) and the requirement that any guidance given to Natural England by the Secretary of State must be in consultation with relevant parties (clause 15 (3)) and published.
6. *Review and Research functions*: Link is encouraged that research will be an important component of Natural England's functions and is particularly pleased to see the inclusion of clause 3(4) in the Bill, retaining English Nature's current role with regard to the gathering, management and dissemination of information.

### **Part 3 – Wildlife etc. - Biodiversity duty**

1. Clause 40(1) introduces a new duty on all public authorities to 'have regard to' the purpose of biodiversity conservation. Link strongly supports the inclusion of such a duty as the minimum requirement if biodiversity conservation is to be properly delivered throughout the public sector. Link particularly supports the recognition that biodiversity conservation includes 'restoring and enhancing' populations and habitats. However, we believe there should be a stronger, clearer duty 'to further' biodiversity conservation rather than the proposed 'have

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<sup>2</sup> Regional Development Agencies Act 1998 - Section 4 of the Act gives the Regional Development Agency (RDA) a statutory purpose "to contribute to sustainable development in the United Kingdom".

<sup>3</sup> The mission of England's RDA's is: "Transforming England's regions through sustainable economic development" (<http://www.englishsrdas.com/home.aspx>).

regard to' duty. Link believes that to effectively deliver the commitments made by government, all public bodies should play an active role in meeting biodiversity objectives and that a clearer duty 'to further' biodiversity is needed to ensure that biodiversity conservation is given consistent and appropriate support by public bodies throughout the United Kingdom.

2. *Non-Natives*: Link has for many years been seeking action to tackle the problems posed by non-native species. Representatives participated in the Government review of the issue and helped to develop a package of measures which would be necessary to protect our native biodiversity from threats posed by problem species. Link therefore welcomes and support the two clauses (49 and 50), which seek to prevent problems by introducing a ban on sale of known non-native invasive species and by legally underpinning codes of conduct to encourage best practice for the commercial, hobby and conservation sectors. We do however believe that a more comprehensive package of legislation and policy is necessary to tackle the problems posed by invasive non-native species. The Bill provides an opportunity to enact proposals made in Defra's recent consultation on Part 1 of the Wildlife and Countryside Act (WCA) 1981 and implement the recommendations of the Government's 'Review of Non-native Species Policy' published in 2003. In particular, we would welcome the introduction of a duty on the Secretary of State to take action in relation to non-native species that have, or potentially have, a serious negative effect on native biodiversity.

#### **Part 6 - Rights of Way**

1. Link strongly supports the inclusion in the Bill of Part 6 on Rights of Way, which introduces the commendable principle that historic horse-and-cart use will no longer generate rights for motorised use by designating routes as Byways Open to All Traffic (BOATs). The primary concerns of environmental groups and organisations representing walkers, cyclists, horseriders and horse and carriage drivers as well as landowners, is that motorised use of green lanes – more often than not these are registered as BOATs - is damaging to the surface, heritage and habitats of these routes, and has a wider impact on tranquillity in the countryside.
2. *New and existing public rights of way (Clauses 61 and 62)*: Link is therefore pleased to note that the provisions in the present Bill limit those vehicular rights that can be recorded on definitive maps and statements showing public rights of way. Link is concerned however, that these provisions, which will stop claims for vehicle rights being founded on historic evidence, will only come in at the Government's discretion and it is imperative that the clauses 99(4) and 99(11) are amended to ensure that the legislation in Part 6 may take effect as soon as possible. It is Link's view that the legislation should be commenced as soon as possible. Link is looking forward to seeing the proposed Government's amendments that deal with the issue of commencement of these provisions following cross party calls in the House of Commons for the earliest possible commencement of these provisions.
3. *Traffic Regulation in National Parks*: Link is pleased to see the inclusion of clause 65 which gives National Park Authorities powers to impose Traffic Regulation Orders (TROs), the regulatory tools whereby damage and nuisance from off-road vehicles may be controlled. Link believes this is a sensible amendment to extend TRO making powers to the National Park Authorities.

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