

Wildlife and Countryside Link Briefing on the Natural Environment and Rural Communities Bill

1. 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 seven million people in the UK and manage over 398,000 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 National Parks
- Friends of the Earth England
- The Herpetological Conservation Trust
- National Federation of Biological Recording
- Plantlife International
- Pond Conservation: The Water Habitats Trust
- Ramblers' Association
- Royal Society for the Protection of Birds
- The Wildlife Trusts
- Wildfowl and Wetlands Trust
- Woodland Trust

2. Natural England

Wildlife and Countryside Link participated in the Natural Environment and Rural Communities Bill's pre-legislative scrutiny, supporting the establishment of Natural England as a powerful champion for our natural environment, recognising the importance of the need for the agency to provide the Government with independent policy advice. Link's interest is in the strengthening and renewal of both policy and delivery, bringing about real improvements in achieving environmental enhancement, public engagement and leadership. Link is pleased to see that as a result of the pre-legislative scrutiny the Bill has been amended in the following areas with regard to Natural England to incorporate our recommendations:

2.1. Membership and Composition of the Board: Link is encouraged to see that the Bill now sets out the proposed membership of the agency with set upper and lower limits, and also stipulates the need for those members to have experience and knowledge relevant to the purposes of the agency. (Schedule 1, clauses 3 and 4).

2.2. Guidance: Link is encouraged that the guidance now includes those "that relate to or affect regional planning and other associated matters", that prior to this guidance being given that the Secretary of State must consult with relevant parties (clause 15 (3)) and that this guidance must be published.

2.3. 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.

3. Natural England's general purpose

Link is particularly pleased that the focus of Natural England remains on the natural environment. Link strongly supports clause 2(1) and believes it crucial for Natural England to retain this prime focus on the natural environment, and in so doing ensure that the agency 'contributes' to sustainable development. In this way, Natural England will contribute to social and economic well-being in ways which support the protection and enhancement 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).

4. Rights of Way

Link strongly supports the inclusion in the Bill of Part 6 on Rights of Way. The inclusion of this legislation has been promised by the Government since its consultation in 2003 recognised the need to address the growing problems associated with the recreational use of mechanically propelled vehicles on unsurfaced rights of way in the countryside. 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 is damaging to the surface, heritage and habitats of these routes and has a wider impact on tranquillity in the countryside.

4.1 New and existing public rights of way: Link is 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. It does this by halting the creation of rights of way for mechanically propelled vehicles based on the use of evidence of old rights of horse and cart, and preventing post-1930 use of a way by a mechanically propelled vehicle from giving rise to any future public right of way.

Link is concerned however, that the provisions, which will stop claims for vehicle rights being founded on historic evidence, will only come in at the Government's discretion. In the two years since the Government announced intention to legislate, many hundreds of claims have been put in for vehicular rights over fragile ways using this legal loophole and it is imperative that the clauses 97(4) and 97(10) are amended to ensure that the legislation in Part 6 may take effect as soon as possible.

4.2 Section 34A CROW Act: Link is concerned to see that the Government is repealing section 34A of the Road Traffic Act 1988, inserted by the Countryside and Rights of Way Act 2000 but which has never come into force. Section 34A was intended to stop those driving on footpaths and bridleways (on the face of it illegally), who were escaping prosecution by producing evidence of alleged but hitherto unknown vehicular rights on that route (i.e. the allegation was enough for a prosecution to fail). The Government considers that section 34A is contrary to human rights legislation, but does not intend to replace it with a robust mechanism for prosecuting those who drive on footpaths and bridleways. Link considers the Bill must be amended to include such a mechanism.

5. Wildlife

Link will shortly be producing a separate briefing on the issues contained within Part 3 (Wildlife etc.) of the Bill and has actively participated in the review of Part 1 of the Wildlife and Countryside Act (1981).