

Ref: AFG 01/2023

AFG Minutes: 26/01/2023**Location:** Webinar/teleconference**Chair:** Joe Watts**Secretary:** Sarah Lawson**Attendees****AFG Members:**

Neil Douglas (RSPB) **ND**
Neville Elstone (Cumbria Woodlands) **NE**
David Lewis (RICS) **DL**
Graham Garratt (ICF) **GG**
Caroline Ayre (Confor) **CA**
Claire Douglas (RPA) **CD**
Poppy Sherborne (NFU) **PS**
Jackie Dunne (Confor) **JD**
James Russell (Community Forests) **JR**

Graham Clark (CLA) **GC**
Nick Phillips (Woodland Trust) **NP**
Brian Fraser (HTA) **BF**
Simon James (Small Woods) **SJ**
Paul Orsi (Sylva) **POr**
Cheryl Lundberg (RFS) **CL**
Adrian Jowitt (Natural England) **AJ**

FC/Defra:

Joe Watts (FC) **JW**
Penny Oliver (FC) **PO**
Ann Weddle (FC) **AW**
David Robertson (FC) **DR**
John Powell (FC) **JP**
James Murdoch (FC) **JM**
Mark Broadmeadow (FC) **MB**
Elspeth Ransom (Defra) **ER**
Anna Brown (FC) **AB**
Sarah Lawson (FC) **SL**
Stephanie Rhodes (FC) **SR**

Katie Booth (FC) **KB**
Fjolla Morina (FC) **FM**
Rory Lunny (Defra) **RL**
Matthew Woodcock (FC) **MW**
Laura Heneker (FC) observing
Rose Abbott (FC) observing
Rebecca Owens (FC) observing
Hannah Dawson (FC) **HD**

Apologies:

John Blessington (Local Government)
Alec Rhodes (FC)
Keith Jones (FC)
Hugh Loxton (Defra)
Adrian Sherwood (RPA)

Julian Ohlsen (SW AFG)
Clive Thomas (Soil Association)
Aimee Seikus (Defra)

AFG Minutes

Welcome

JW opened the session and welcomed all.

Historic Environment Supplementary Technical Guidance for Woodland Creation

DR presented the slides.

JR curious as to where the idea of a service standard fits into this or whether it's entirely separate.

DR advised that service standard has morphed into a memorandum of understanding. FC is running a consultation review in parallel with the historic environment work, and as part of this, is working on producing Memorandums of Understanding (MoUs) with consultees. The service standard for historic environment advice on woodland creation will be one of these MoUs. Charging schedules for Local Authority advice will be built into the historic environment MoU.

JR confirmed it all sounds really good and trying to achieve a greater consistency which is helpful.

EWCO Update

AW presented the slides.

GG queried with regard to revision to capital payment rates. Advised that dealing with a large agricultural stewardship agreement it was a problem when announced that the capital rates wouldn't be uplifted at the same date as the land management rates. This was then reconsidered at government and decided that capital rates will be uplifted from 1st Jan. Can FC feed back to RPA as to why that was a bad initial decision and put in place a mechanism to try and avoid such events in the future.

JW advised **PO** would be picking up general principle of payment rates increase so to hold that question for her.

GG queried funding for historic environmental checks and how that related to Hefer, which is provided freely. If we receive a Hefer are we still expected to do separate consultations with archaeological officers? Also asked regarding the capital for access.

Infrastructure in relation to public rights of way isn't eligible for funding. Don't understand the logic for this.

ACTION: AW regarding the point about historic environment this will be taken away.

JW the point regarding access funding will be taken away and picked up with Helen Townsend. Assume it's because there is a statutory requirement to support the access and it's something we don't grant fund because it's a requirement rather than a choice. Comments are noted.

ACTION: AW/JW to take away question regarding access funding.

JD raised that the contract from EWCO that a client receives is horrendous. It's hard to follow and is not fit for purpose. The other point is about deer control – there is mention of a supplement for payment to try and encourage the removal of fences but it's not taken into account the combination of control with deer fences and rabbits, voles, hares and the intensity that's required. We use control and fencing and think this needs further thought.

ACTION: AW noted the points regarding the contract and asked if they could follow up offline to explore in more detail.

Regarding the deer control, the feedback is very useful and as the project is something that is still being worked on they can have a look into this.

ND queried the electric fencing and enquired whether that is livestock fencing or predator fencing and what are the likely costs and payments involved. Also there was mention of the HS2 fund moving into EWCO and wondered if that affects the status as a compensation fund for the purpose of trees and habitats targets.

AW advised that for the electric fencing the aim was for the protection from deer and that's the spec that has been looked at so far. HS2 fund question referred to Joe.

JW advised that the HS2 fund will continue to fund it but will be through EWCO roots. It will still be counted by HS2 but this is a simplification in that it would be a single application rather than lots of grants. More of a simplification from the customers point of view rather than a change in the fund.

WCPG Update

JP presented the slides.

GG noted on the process slide that from the Enhanced Stage 1 you go to right hand diamond which says you've adequately designed, then move left and if not in a low risk site or exceeds threshold you go to orange box which is about design. Doesn't flow correctly.

ACTION: JP noted the comments and although this is a simplified version this will be reviewed on the wider version and make sure that it flows in a more succinct way.

ND enquired whether this process is incorporating EIA and EIA consultation.

JP advised currently haven't incorporated as it is tied in with strategic EIA elements that the regs team are doing further down the line. It's a future change that we would like to make. EIA element would be incorporated into the WCPG and means once you'd left the WCPG you'd have a regulatory weighted plan which would help further down the line.

JD asked whether the public register consultation has normally been done through EWCO and now it's been brought into here or has it always been done in WCPG.

JP confirmed that it's not something that has been done in WCPG and is normally attached to the creation grant itself. Bringing it into WCPG is to remove some of the stakeholder engagement and reduce duplication.

JD asked if there was a timeline regarding the public register consultation.

ACTION JP: to take timeline question of how long a proposed project has to complete planting once it's been on the register before needing to be put back on if planting hasn't started after a period of time, and refer to Katy Moseley

Felling Licence and Planning permission and Environment Act 2021 updates

JM presented the slides.

JD asked about how to handle a similar situation. If a client wanted to do something similar after they'd felled whether they had restocked or not, would consult with FC thinking a licence would be required to go to open land and would have to restock elsewhere. Is that the kind of consultation you would expect at that first stage?

DL commented that had experiences of landowners making cases for converting woodland to garden land and has been used by developers looking to increase their chances of getting planning permission. Converting land to a garden is a change of use and would require planning. Seems difficult to confirm what constitutes a change of use

to garden. How much has to happen over what period of time? Other point is should there be extra protection for ancient woodlands and should there be a review of the 5 metres cubed per calendar quarter to some other basis?

GG commented recently briefed on regulations that actually permitted development constituted an exemption, presumably subject to correct prior notifications, through the planning authority but looking for clarification on that. Also regarding the situation that subsequent planning permission doesn't supersede triggered felling conditions. If the planning authority aware of conditions and then issue planning permission because it served society to have the land use changed it feels as though there should be a legal mechanism in place.

JM in response to the first and last comments - need to look at the best route to fell trees in a planning context. Both systems are being used in parallel and often people apply for a felling licence and then apply for planning permission but doesn't work legislatively because systems aren't designed to work together. Advice is to go down the planning permission route and to include trees within their planning permission and explicitly get that permission under the planning regime. Consequence of the felling licence that if you apply for a licence and fell under it you need to restock and that's legally binding. If you fell and then submit planning application the local authority isn't going to be aware of the felling licence despite our best efforts and will prevent them making a full decision.

Woodland being converted to garden use is often an issue in potentially illegal felling cases. There is some law in the Forestry Act as to what constitutes a garden and we look at things like historical and current use of the land. We use tools to say whether its properly garden or not and fully agree that changing woodland to garden is a change of land use under planning.

JM comments in chat to **GG**: just to confirm that felling 'immediately required' in order to carry out permitted develop is exempt from the need for a licence. Of course, in line with the judgement, permitted development will not override engaged felling licence of enforcement notice conditions.

JM comments in chat to **DL**: I can confirm that there is no active review in relation to the 5m3 allowance underway at present. We always welcome thoughts though if you want to send me some particular thoughts. In relation to ancient woodland, there is an ongoing wider discussion as to whether more ancient woodland should be protected under SSSI. Any deforestation of ancient woodland would almost certainly engage protection under the forestry EIA regs. Additionally, amendments to the NPPF mean that ancient woodland is now all but entirely protected/excluded from development - except

for the most pressing infrastructure projects. BNG will also provide additional barriers to developing ancient woodland.

Environmental Targets

MB presented the slides.

NP commented that it's great there is a legal target for the first time and great to see the wider forestry types supported like agroforestry. It's going to be a challenge to scale up. Question whether there was a lose in confidence in the target. It was put forward in the consultation and supported in line with achieving net zero. Seems odd response to consult on something and then cut the target down. Also keen to understand regarding sub targets so that it's not just about trees – would be good to understand why it was felt not appropriate to carry on with these.

MB advised in terms of sub targets the decision was taken that this would make a very challenging target still more difficult to deliver because there would be a need to deliver on both. In terms of ambition there were comments in the consultation responses and everyone welcomed the high level of ambition apart from a few that wanted higher targets, but noted how challenging it would be to deliver. View was that to fit the legal requirement of the act that all targets needed to be achievable and the decision was taken that 16.5% at this stage was the highest target that would meet the requirement under the Act.

GG commented that he agreed with **NP** that it seems difficult to reconcile saying it's an ambitious target but actually it's been downgraded. Questions – do we have a good baseline of all the tree cover outside of woodland to inform these targets? Also what is the reporting mechanism prior to 2051 and what are the consequences if the target isn't met?

MB commented that if the target fails to be met in 2050 there will be explaining to do but putting a statutory target in place is intended to provide policy direction funding to ensure that it is delivered. There are 5 year interim targets in place along the way that are non statutory but will be reported on. In terms of monitoring the base for trees outside woodland is based on 2017 NFI report tree canopy outside woodland. This is currently being re baselined and will be published in the forestry statistics later this year.

JD asked if the targets apply to all Defra bodies.

MB advised that it is a target for everyone and it is government as a whole that is responsible for delivering it. It is anticipated that private funding will contribute an increasing proportion of tree planting over time.

ELM Update

NE advised awaiting details to be published. Three things taken away from meeting. One was about Local Nature Recovery Strategies and appeared to be a weak link between any of Agri environment payments and LNRS which seems surprising. Secondly, costs – everything is based on costs and income foregone, nothing on payment by results. Thirdly around uplands and seems that they are unlikely to be able to gain much more from the incentives that have been offered. Sounds like they could be hit quite hard.

PS confirmed expecting the link to document today and need to digest that detail. There's a lot of questions around what we might expect in future schemes, in future years. Still got questions but pleased to see Defra being proactive. One of the clear things that came out regarding CS. Heard about CS plus and how CS is going to evolve. Previously advised that CS plus would be LNR developed and actually CS is essentially going to be the future of LNR and CS plus is going to be where there is a collaborative approach. There was clarity on this which was important. A lot to digest and then will be able to look at it further.

<https://defrafarming.blog.gov.uk/2023/01/26/environmental-land-management-schemes-details-of-actions-and-payments/>

<https://www.gov.uk/government/publications/environmental-land-management-update-how-government-will-pay-for-land-based-environment-and-climate-goods-and-services>

CS and ELM Update – Payment Rate Changes

PO presented the slides.

CD clarified regarding Countryside Stewardship and Mid Tier and Higher Tier. New rates will apply to all new applications from Jan 2023. Applications made in 2022 would normally have a start date of 1/1/23 so normally would have been excluded but there had been a change so applications starting from 1st Jan (so those made last year) under mid and higher tier will have the new rates applied where there is an increase.

GG commented that the uplift of the capital grants is incredibly timely and thanks to all involved.

JD agreed with **GG**. Commented that would like to get a greater understanding of the threshold in inspection, changes in inspection and how they are dealt with. Also the

changes in inspection between EWCO specifications and the RPA specifications that we might use. Seems a bit weak at the moment and potential of risk for clients.

PO noted the comments and advised that there is a shift in the emphasis around inspection and should see some of that in announcement information released. Can pick it up.

ACTION: PO to discuss with JD the challenges that are being seen.

AOB

JW advised that this is the last meeting that Caroline Ayre will be attending as Confor rep. Many thanks to her for input over the years.

CA passed on her thanks and advised that she is going to work in Evolving Forests and there should be a replacement in the next few weeks.

ER presented slides regarding Ips Typhographus

GG asked if there are restrictions affecting the Christmas tree industry.

ER advised that they do have information.

MW advised that the key thing is that healthy spruce and particularly smaller spruce aren't attractive to the beetles so important that owners are aware but not perceived as a major threat. Exception being very large Christmas trees.

ACTION: ER to forward on information regarding Christmas tree guidance.

ND asked if it is affecting Sitka spruce as well as Norway spruce.

ER confirmed that it is affecting all kinds of spruce. In Europe it has been found on Sitka.

JW advised that there will be further updates in the coming weeks/months regarding our proposals in terms of how we will develop this.

CA advised that a possible future agenda item is for timber and construction policy road map and the national wood strategy.

JW thanked all for attending.

Meeting ended 12:22.