

Citizen Participation and Public Petitions Committee

5th Meeting, 2022 (Session 6), Wednesday
23 March 2022

PE1812: Protect Scotland's remaining
ancient, native and semi-native woodlands
and woodland floors

Note by the Clerk

Lodged on	5 August 2020
Petitioners	Audrey Baird and Fiona Baker on behalf of Help Trees Help Us
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to deliver world-leading legislation giving Scotland's remaining fragments of ancient, native and semi-native woodlands and woodland floors full legal protection before COP 26 (UN Climate Change Conference of the Parties) in Glasgow in November 2021.
Webpage	https://petitions.parliament.scot/petitions/PE1812

Introduction

1. The Committee last considered this petition at its meeting on [9 March 2022](#). The Committee took evidence from the petitioners, RSPB, Confor, NatureScot, Woodland Forestry Scotland and Scottish Forestry.
2. At today's meeting, the Committee will take evidence from Máiri McAllan, Minister for Environment and Land Reform. A separate questions paper is provided for Members as **Paper 3 (private paper)**.
3. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.

4. The Scottish Government's initial position and further submissions on this petition can be found on the [petition's webpage](#) and at **Annexe C**.
5. Written submissions received prior to the Committee's last consideration can be found at on the petition's webpage <https://petitions.parliament.scot/petitions/PE1812>.
6. All written submissions received on the petition before May 2021 can be viewed on the petition on the [archive webpage](#)
7. Further background information about this petition can be found in the SPICe [briefing](#) for this petition.

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe A

PE1812: Protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors

Petitioner

Audrey Baird and Fiona Baker on behalf of Help Trees Help Us

Date Lodged

5/08/2020

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to deliver world-leading legislation giving Scotland's remaining fragments of ancient, native and semi-native woodlands and woodland floors full legal protection before COP 26 (UN Climate Change Conference of the Parties) in Glasgow in November 2021.

Previous action

We have sought guidance from the Planning Department and Access Officer, as well as advice from the Woodland Trust Scotland (WTS), RSPB and MSP Jackie Ballie. WTS contacted Scottish Natural Heritage (SNH) and Scottish Forestry on our behalf.

Background information

According to 2018 report by the United Nations' Intergovernmental Panel on Climate Change, protecting and restoring the world's forests could reduce global emissions by 18 percent by 2030.

Year after year we watch in horror as vast forests in the Amazon, USA, Australia and elsewhere go up in flames. Meanwhile, governments around the world are failing to live up to promises to plant trillions of saplings that will not mature enough to capture meaningful amounts of carbon for decades. It is therefore unacceptable that Scotland's

remaining ancient, native and semi-native woodlands and woodland floors have next to no effective legal protection and can be destroyed on a whim.**

According to the Woodland Trust, ancient woodland covers only around 1% of Scotland's land area.

Sir David Attenborough has said: "The future of humanity and indeed all life on Earth depends on us." A local 'lockdown' event has exposed a national tragedy around just how vulnerable Scotland's remaining pockets of ancient woodlands really are. During lockdown a mountain bike trail was constructed, with the landowner's permission, through a small, beautiful, very mature and intensively grazed, ancient woodland that previously had an almost pristine, densely packed native bluebell carpet. Thousands of bluebells (and other native wildflowers) were destroyed, decaying timbers were sawn up and used to create jumps and berms, and small branches were cut to clear part of the trail. The trail was built during the nesting season, disturbing at least one buzzard pair who had a nest directly above the trail and another nest nearby in the wood. Informal wildlife surveys have revealed the wood also supports other protected raptors including owls and sparrowhawks, plus European protected species such as otters and bats. Woodpeckers, hedgehogs, mice voles and other animals are also resident in the wood. The ecosystem pyramid that supports life in this ancient woodland was being destroyed.

The trail did not conform to guidance around the safe construction of mountain bike trails and, although we understand no official has visited the site, we have been informed the bike trail would not need planning permission as it is of mud and timber construction. Additional threats to this wood are that the old stone boundary wall, probably built to stop livestock straying into the gorge and to manage the woodland as a resource, is now in ruins and cattle and deer intensively graze the woodland floor every year. The existing trees are mature and no saplings are able to survive. Thus, without help, much of this wood (in common with many other ancient and native woods) is unlikely to survive beyond this century. Lastly, a gorge cuts through the wood and on the southern boundary a large estate is being demolished. Windblown polystyrene and other debris has littered the south side of the wood and burn at the bottom of the gorge. We, and others, have complained to SEPA and tried to remove the debris ourselves.

It therefore appears no effective legislation exists to protect Scotland's ancient and native woodlands, rare habitats, woodland floors, native

bluebells and other wild plants, nesting birds or other wildlife when landowner permission is granted for developments such as mountain bike trails.

The desecration of a small, ancient, irreplaceable habitat is unacceptable and we understand many new trails have been created in woodlands and other green spaces across Scotland during lockdown. Knowledge of the Scottish Outdoor Access Code is limited and, in addition to new legislation, there is clearly an urgent need for greater respect and more effective education around protecting our environment.

According to the Native Woodland Survey of Scotland (NWSS) only 4-5% of native and semi-native woodland (including 'ancient') cover remains in Scotland (down from a high of 80% woodland cover 5,000 years ago). The Survey concludes that '**...the current amount and distribution of regeneration [of Scotland's native and semi-native woodlands] is not yet enough to sustain all of our current native woodland resource in the long term**'.

Therefore we urge:

1. this Scottish Government to use the NWSS to inform a process to grant full legal protection for all ancient and semi-native woodlands greater than 0.5 hectares;
2. a new classification of ancient and semi-natural native bluebell woods to be included in future surveys;
3. new, simple and unequivocal regulation on how our ancient and native woodlands must be managed respectfully from now onwards;
4. the Government to provide incentives to landowners to protect these woodlands from inappropriate development, over grazing by livestock, neglect, misuse, pollution, fly-tipping and other damaging activities;
5. the Government and partner organisations to ensure local communities know where their ancient and native woodlands are, why they are priceless and irreplaceable, and why they must be protected; and
6. that woodland floors of ancient, native and semi-natural woodlands are recognised as irreplaceable and finite assets and that they are properly assessed and classified in EIAs and are afforded the classification of 'sensitive'. No mitigation for disturbance or destruction of woodland floors is currently required by any Environmental Impact good practice guidelines or protocols. Developments such as mountain bike tracks and paths with the landowner's permission appear not to require planning consent and as they are not classed as Schedule 1 or Schedule 2

developments The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 do not appear to apply. Again The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 applies only to agricultural development and do not adequately provide for assessment or protection to our native woodland floors. We urge the Scottish Government to address the current shortcomings in existing legislation to ensure Scotland's diminishing, rich, biodiverse woodland floors, formed over hundreds of years, are protected from damage and destruction. Planning permission for any development, including paths and trails, (i.e. altering the status quo) should be required by statute. Where disturbance for emergencies cannot be avoided, appropriate mitigation measures to minimise the impact, including establishing new areas of native planting to compensate the loss, should be required.

The National Planning Framework 4 includes six high level outcomes, including:

- improving the health & wellbeing of people living in Scotland;
- meeting any targets relating to the reduction of emissions of greenhouse gases; and
- securing positive effects for biodiversity.

We strongly argue that giving full legal protection to Scotland's remaining ancient and native woodlands meets all three and we aspire to a future Scotland that respects and protects our precious trees.

EXISTING LEGISLATION THAT IS NO LONGER FIT FOR PURPOSE

(Note: Scotland's ancient and native woodlands are mentioned in rafts of guidance and policy documents relating to forestry and environmental management, usually linked with economic development and planning. Nowhere in these documents was an unequivocal message around legislation protecting our ancient and native woodlands to be found.)

- Section 8 of the Wildlife & Countryside Act, section 13(2), which prohibits the sale or advertising for sale of native bluebells. We believe this act no longer protects our native bluebells from current real threats.
- Forestry & Land Management Scotland Act 2018. Landowners can legally fell up to 20 cubic metres of trees (or four mature oak trees) in any small ancient or semi-natural woodland larger than 0.5 hectares each year. This is regardless of whether the trees present a danger to life or property. We believe the felling of up to four mature oak trees each year is too large a burden for a small wood to be sustainable and represents an unacceptable disturbance to the ecosystem.

- The Scottish Forestry Commission's 2009 Control of Woodland Removal 2009 states woodland removal with compensatory planting is most likely to be appropriate where it would contribute significantly to encouraging recreational activities and public enjoyment....There will be a 'strong presumption' against removing certain types of woodland, including ancient and semi-natural woodland. We believe this guidance with no teeth and the focus on recreational activities and public enjoyment is no longer acceptable and ancient woodlands must be valued in their own right for their unique biodiversity and carbon capture. In an increasingly complex world where people are confused and overwhelmed with information, our priceless remaining ancient, native and semi-native woodland cover must now have full legal protection that is simple to understand, clearly communicated and unequivocal. It is not acceptable that it is legal to continue to exploit, vandalise and disrespect our remaining outstanding natural assets and pass on a further degraded Scotland and home to future generations.

Annexe B

Extract from Official Report of last consideration of PE1812 on 9 March 2022

The Convener: Welcome back to the committee's fourth meeting in 2022. We will resume item 1, which is consideration of continued petitions, with an evidence session with petitioners.

PE1812, which was lodged by Audrey Baird and Fiona Baker, calls on the Scottish Parliament to urge the Scottish Government to deliver world-leading legislation giving Scotland's remaining fragments of ancient, native and semi-native woodlands and woodland floors full legal protection before COP26. Of course, COP26 took place last November, so that deadline has passed, but we are still interested in the aims of the petition and the issues at its heart.

When we considered the petition previously, in February, we decided to invite the petitioners in to hear from them directly. It is great that we are able to do that again, so I give a warm welcome to Audrey Baird and Fiona Baker. We will then be hearing from a number of organisations that are interested in the issues that have been raised.

Both our petitioners are here on behalf of Help Trees Help Us. We also expect to be joined by Jackie Baillie MSP, who spoke on the petition at its first consideration last month. She is on her way, so we will welcome her in due course.

We have a number of questions and an opportunity to test some of the objectives of the petition and what you might want us to do. What would the petitioners specifically like to say to us at this stage of our consideration, by way of an introduction?

Audrey Baird: Thank you for extending an invitation to come to your committee today. It is very welcome. I will refer fairly extensively to notes, because this is such a complex issue and I do not come from a forestry background, so I need some prompts.

Over the two years since we submitted our petition, we feel that the case has been successfully made on an international stage for the world's old-growth woodlands to be protected in order to stem biodiversity decline and global warming. Sadly, however, deforestation of old-growth woodland continues unabated here in Scotland and across the world to meet growing demand for timber products from big economies such as those in China and England.

The tragedy is that most minds and hearts have not yet been won over by the case to save woods and trees for the future or for people who are losing their homes and

their countries from flooding and so on from rising sea levels and indeed for the very survival of earth's habitable ecosystem.

For our local community, the ancient bluebell wood that gave rise to our petition two years ago is essentially our ground zero. The committee has photographs of that ancient bluebell wood before and after a bike track was built in it. In order to protect the wood, we feel that we need to identify the immediate threats to it. We cannot protect it unless we know what the threats are. That is the basic process that we are going through now; we are trying to identify the threats within a mile's radius of the wood.

The key points that we would like you to try to keep in mind are that Scotland has only 1 per cent of its ancient woodland cover; that is down from 80 per cent land cover 5,000 years ago. England has about 3 to 4 per cent of ancient woodland left. The term "ancient woodland" is not a legal term and does not bring any automatic legal protection. Most of Scotland's ancient woodland has no special designation, such as a site of special scientific interest, and therefore no legal protection.

In response to our initial petition, NatureScot wrote that, at present, more than half of Scotland's woodlands with a special designation

"are in unfavourable and declining condition"

and en route to eventual loss, and that so far the status

"of designated woodlands, and their priority for intervention and incentives is important, but has not been sufficient to prevent the decline and loss described".

NatureScot went on to say that the

"decline and loss is very likely to be worse in non-designated natural woodlands", which includes our woodland.

Heads of Planning Scotland wrote:

"Specific national legal protection for Scotland's remaining ancient, native and seminative woodlands and woodland floors would be a long overdue start."

It went on to say:

"short of (properly enforced) statutory protection these assets will remain at risk and continue to be degraded."

In addition, and with regard specifically to the threat that is associated with commercial forestry, which is what seems to have brought us to the stage at which we have been invited to appear before the committee, around 16 per cent of Scotland is already covered in monoculture commercial forestry. Some areas, including Dumfries and Galloway, are 25 per cent afforested—I suspect that it is

something similar in Argyll and Bute. The vast majority of forestry is non-native and invasive, and half of all forestry is one species: the highly invasive Sitka spruce.

In 2012, Sitka was blacklisted in Norway and Norwegian scientists labelled it an ecosystem engineer, because of its ability to spread rapidly: it grows to be three times bigger than native trees and it changes the soil and water acidity to suit its requirements.

We understand that Scotland is a net exporter of timber, so we already have enough timber to meet our population's needs and still sell some. When people in commercial forestry slam the United Kingdom for having the second biggest deforestation footprint in the world after China, they are actually talking about England.

The most recent United Nations Intergovernmental Panel on Climate Change report, which was issued just last week, includes a section on concerns about geo-engineering. Specifically, the IPCC is most concerned about the planting of the wrong trees in the wrong places, where they degrade water quality and soil and reduce biodiversity and indigenous plants and animals.

We feel that our local community in Argyll is powerless to stop the destruction of our immediate local environment. We described that powerlessness in our most recent submission.

Thank you.

The Convener: Thank you very much. Before I bring in colleagues, let me say that we saw the portfolio of photographs, which were striking. We found the series of images to be arresting. It is extraordinary how much stuff can just be dropped in and be so successful at invading a space and crowding round it.

What has got us to where we are now? Is it a lack of knowledge or a lack of regulation? Is it a lack of enforcement of the limited regulation that there might currently be? You might say that it is all those things.

Fiona Baker: I would say that it is all three.

I do not think that people set out to damage the bluebell wood. People were not really aware of how much damage and destruction they were doing so easily to something that was so fragile.

There is no legislation. We have spent I do not know how many hours wading through guidelines, policies and the law. We had grown up always having the impression that bluebells and other wild flowers and ancient woodlands were protected. You did not disturb them; you did not pick wild flowers. We tried to find out what we could do to intervene to stop damage, but we found nothing. There is an

inventory of designated ancient woodland, but that does not protect those woodlands.

That is why we submitted the petition. Legislation is needed to protect our native and semi-native woodlands and woodland floors.

The Convener: I suppose that, like you, I have made assumptions about the existence of a regulatory and legislative environment. Why do you think that we all thought that?

Audrey Baird: The Wildlife and Countryside Act 1981 contains provisions on wild flowers and specifically mentions bluebells. People have perhaps skimmed that and got an impression of what the legislation says. However, if you read the detail, you find that native bluebells are protected only if you are digging them up to sell them without the landowner's permission.

The Convener: In essence, then, there is protection against commercial harvesting without permission.

Audrey Baird: Yes.

The Convener: And commercial harvesting is okay if you have permission.

10:15

Audrey Baird: Yes, exactly. If you have the landowner's permission, you can do that. That may have been appropriate in 1981, when the law was passed, but it is not suitable 40-odd years later.

David Torrance: Your submission says that you are looking for protection for historic native woodlands larger than 0.5 hectares. Is there a lack of the data and information that would help you to achieve that? How would that help the Scottish Government or any other authority to take care of woods?

Audrey Baird: Your question relates to the ancient woodland inventory that already exists. We cannot protect something if we do not know where it is. There is a terrible lack of knowledge among community councils and local authorities. They do not know that there is an ancient woodland inventory. The existing inventory is completely out of date. We need substantial investment to bring it up to date and make it relevant.

Fiona Baker: The inventory has not worked. It has not provided any protection. In the past two years in our community, across a less than two-mile stretch and under three different ownerships, we have seen ancient woodland destroyed with a bike track, ancient oak trees being burned and planted ancient woodland, which is another designation, being illegally felled without a licence.

All that happened within a short stretch. We can extrapolate that across Scotland. Since we started the campaign, we have heard of things happening across Scotland. It is incremental and it adds up. The inventory has not helped. It is great to have it, and to have it updated, but we really need legislation.

David Torrance: You have said that the 1981 act needs to be updated. The new national planning framework is out for consultation. Have you been able to see that? Have you fed into that process as a way of changing regulation?

Audrey Baird: Getting national planning framework 4 right is absolutely essential for our ancient and native woodlands. All weak or ambiguous language must be removed to ensure that local authority planning officers have the law at their backs when making recommendations about planning applications that threaten ancient and native woodland and other important nature sites to ensure that those are refused.

All the weaknesses come from ambiguous language. That wastes time in committees and causes stress for planning officers. They should be given the clarity that they need to make recommendations and to see them through, so that they can protect our ancient woodlands and other sites.

Permitted development rights for forestry plantations should be removed. Environmental impact assessments and the assessment of the impact of forestry plantation on communities should be attached as conditions to new planting schemes as a matter of course.

National planning framework 4 is a tremendous opportunity that we must not lose. António Guterres has told the United Nations that we are running out of time. We cannot afford to take risks or to have weak legislation that creates loopholes.

Alexander Stewart: Thank you for your comments and for imparting your knowledge through your statement and evidence.

Scotland is due to update its biodiversity strategy. That could be of real benefit, if it makes the progress that you want to see. What would you like to see in that strategy to assist you to achieve your goals?

Fiona Baker: We support the nature recovery plan for Scotland that was published in 2020 and that was created by the leading conservation organisations. They are the real experts.

Having said that, we have subsequently identified issues that are relevant to our petition. We feel that the current afforestation programme to plant 14,000 hectares per annum of forestry plantation by 2024 needs to be reviewed carefully and reconsidered, because we feel that we could be heading for a biodiversity catastrophe.

I will continue with what I have written down, which is that a Sitka spruce woodland is not a diverse woodland, unlike a native broadleaf woodland. A single statistic exemplifies that: the number of invertebrate species supported by a Sitka spruce is 37; the number supported by an oak tree is 423.

Biodiversity and climate change are completely interlinked—it is a circle—and we feel that the carbon capture argument for commercial forestry also needs scrutiny. Native broadleaf woodland will capture much more carbon over its lifetime than a 40-year cash crop will. There is also all the carbon that is locked up in the soils and undisturbed in the so-called marginal land—peatlands. I know that if peat is deeper than 50cm it cannot be planted with conifer plantations, but that top 50cm has captured plenty of carbon as well. If we look at how much carbon is being released by forestry, we see that it is not a gain but a loss if we keep afforesting vast areas.

We feel that the current afforestation programme is a strangulation of Scotland's biodiversity and that it is potentially catastrophic in the long term. Reaching net zero is one thing, but doing it in a sustainable manner is another. The other thing that I wrote down is an observation by one of Scotland's most famous sons and the founder of the global national parks movement, John Muir, who said:

“When we try to pick out something by itself, we find it hitched to everything else in the universe.”

It is important to remember that.

Alexander Stewart: One of the main thrusts of your petition is the whole idea of how the conifer plantations come into the process. You want to identify and stop, or stem, some of that process, so your views on how that should be balanced in the whole system would be useful.

Fiona Baker: We started because we were upset about our bluebell wood being disturbed and then about trees being burned. Simultaneously, there was an application for another 202 hectares of commercial conifers to be planted next door. I am a community councillor and the current convener of the council, and we were assessing that as well.

We went through the whole consultation programme and, at the end of it, we were left feeling completely disenfranchised and that communities have no influence or seat at the table with the forestry industry on what is happening in our local environment for our health and wellbeing. That is why we sent in the pictures of the logging trucks. That has been going on for years and there is now more forestry that will keep using the same roads. However, that is a separate issue.

You are right that it is about balance. We just feel that, with the current planting targets, as well as lots of other influences that come into it with commercial forestry and the money that is involved, which we might touch on later, we need to stop and assess the situation and get the correct balance. We know how important

commercial forestry is to Scotland and we are not saying that we should not have it. It just needs to be done better.

Audrey Baird: Our issue with commercial forestry in relation to ancient native woodland is that commercial forestry involves planting species that are invasive and non-native. That issue has no profile in the media or elsewhere. There are several sources of evidence on it but, specifically for Scotland, in 2015, the Forestry Commission Scotland produced guidance on “Managing Invasive and Non-native Forestry Species”. That is the latest version. It details how forestry managers should manage conifer escape and self-seeding, and says that time is absolutely of the essence.

According to the guidelines and the UK forestry standard, forestry managers should be “rapidly” responding to self-seeding spread from conifer plantations. The guidance also lists all the species that are used in commercial forests. On Sitka spruce, for example, it says:

“Characteristics are well-known because of its widespread planting. Regeneration can be profuse in favourable conditions—early intervention would be needed.”

Western hemlock is a species that is less used but has the

“Potential to be highly invasive particularly in native woodland—early intervention would be needed.”

I hope that you got the impression from some of the photographs that I sent the committee and that you saw at the previous meeting with Jackie Baillie that many of the escaped conifers are many years old—10 or 15 years old. They are not being dealt with by the forestry industry in the way that they should be according to the UK forestry standard.

In addition, NatureScot, which I believe you will be talking to shortly, is already providing funding, through the nature restoration fund, for the removal of self-seeded commercial conifers. Why is the publicly funded nature restoration fund having to clean up after a vastly wealthy and highly profitable industry that is harming our country?

You will also be speaking to the Royal Society for the Protection of Birds, which said in a recent policy briefing:

“The threat of non-native commercial trees seeding out onto peatlands and other priority wildlife habitats must ... be addressed when considering where to plant trees. This is already a significant issue and drain on conservation budgets, and is likely to intensify in future, risking Scotland’s world-leading peatland restoration investments.”

In addition, there is all the photographic evidence that we have provided, and you might have had a chance to look at the Sky News piece that was filmed in rain forest

in Argyll. The self-seeding of commercial conifers there, including directly on to the trees themselves, is very evident and obvious.

There is so much evidence that the issue is not being dealt with. One sixth of Scotland is already covered by commercial forestry, and clearly the industry is not able to manage that amount of forestry. Should we be adding more, when a big clean-up job already needs to be done?

Ruth Maguire: My questions were to be on the impact of commercial forestry, but we have covered that quite extensively. Speaking of the issues that need to be addressed, are you in a position to expand a bit more on what exactly needs to happen and what the industry should be doing?

Audrey Baird: It should be complying with the UK forestry standard and its own guidelines. What it should be doing is all there, and it is perfectly clear in its own guidelines, but it is not happening.

Fiona Baker: With the targets going up from 14,000 to 18,000 hectares a year, there is a huge burden now on Scottish Forestry to get all the planting schemes approved and pushed through. Perhaps they are not all being given the due diligence that is required to look at all aspects.

There should be greater buffer zones and better wildlife surveys, and all the schemes should have an environmental impact assessment. At the scheme next to us, there was no wildlife survey. They said, "There are no otters in these burns", but there are otters in those burns—people have seen them. They said that there are no—I cannot remember which kind of bird it was, but it was not black grouse. However, the RSPB people have seen short-eared owls and what have you up there. The archaeological survey looked pretty sketchy. There was a 100 per cent increase in findings in just a tiny area from the local society going up and having a look around.

I feel that things are getting pushed through in a rush and that there is no due diligence. There should be greater intervention and possibilities for communities to intervene.

I brought a picture with me. This is the local woodland that we are getting on our doorstep. The top picture is of what it looks like now, and the bottom picture is of what it will look like. We asked if we could have a community path through it, but there has been nothing. They said, "We are looking into a new road", but the landowners have not heard anything, and there is no new road. They are fiddling around the edges. They are putting in a few broadleaf trees to screen the woodland and to make it look a bit better, but that does not enhance biodiversity.

10:30

There should be a root-and-branch review of Scottish Forestry. I feel that Scottish Forestry and the Confederation of Forest Industries are in each other's pockets. Who regulates the regulator? They are marking their own homework. That phrase was used to describe the Forestry Commission in England and it should be borne in mind. Who is scrutinising the delivery of forestry?

Paul Sweeney: Thank you for your informative contributions. When I looked at the photographic evidence that you submitted, I was struck by example 2 and the brutal-looking clearance of ancient woodland and felling of trees in Argyll.

You say that, having investigated the felling work that was carried out, Scottish Forestry is pursuing a breach of the Forestry and Land Management Act (Scotland) 2018. What penalties are there in the act for that sort of breach? Penalties are often so utterly weak that infringements can be priced in. Some people take the risk of a parking fine: a £30 hit will not massively change their behaviour. What is the current provision for enforcement? When the rules are enforced, what are the penalties? I would like to know more about that.

Fiona Baker: The penalties are pretty substantial. I think that, for the example that we gave you, the penalty was £5,000 per tree and 100 trees were cut.

Audrey Baird: Yes.

Fiona Baker: The penalty was £500,000.

Audrey Baird: That is what the forestry officer told us at the time.

Fiona Baker: However, that was more than a year ago. We heard this week that there will not be any enforcement. They had a nice chat and everything will be fine. We are not to worry. That is basically what it boils down to.

Audrey Baird: We hope to provide more evidence about the threat and impact of commercial forestry in our next submission.

Paul Sweeney: Who is the landowner in that instance? Who was being accused?

Fiona Baker: The landowner is a private individual. The head of operations from Scottish Forestry came out and looked at it. We were there and helped to measure the trees. He was very upset at the time. He was swearing at some of the trees that had been cut down because it was so shocking. We were very surprised to find out that there will not now be any enforcement. We want to find out what happened in the follow-up.

Audrey Baird: Various measures were asked for, including fencing off the area of woodland that had been felled and putting nets over the stumps to protect them from grazing animals so that they could regenerate naturally by coppicing. The landowner has not done any of those things.

Paul Sweeney: What was the landowner's motivation for felling the trees?

Fiona Baker: They said that they wanted to have more grazing animals—more sheep.

It is a planted ancient woodland. The council was asked to put an emergency tree preservation order on it, and we are still pursuing that. The council has been up to look at it and at the neighbouring ancient woodland, which was being burned by the tenants. The council said that those are high-value woodlands.

We are hopeful, but it is a year on from the request for the emergency TPO. Tree preservation orders get broken all the time.

Paul Sweeney: What is Argyll and Bute Council's position? Has the council expressed a view on TPOs and enforcement?

Audrey Baird: I believe that the council has visited the woods, so a TPO might be on the way. We were in contact with NatureScot, the Scottish Environment Protection Agency, Scottish Forestry and the council on the incident. Twenty-three cubic metres were felled; you can fell up to 5m³ without a licence, but you need a licence for anything over 5m³.

Fiona Baker: That is per annum.

Audrey Baird: It is per quarter.

Fiona Baker: I thought that it was per annum.

Audrey Baird: We have it all in writing from Scottish Forestry and are pursuing it at the moment. We hope to be able to come back to the committee with more information on it.

Paul Sweeney: Do councils enforce tree preservation orders or are they a national thing? Can it be both?

Audrey Baird: No, they are administered by the local authority.

Paul Sweeney: There is a similar issue with the bluebell wood example. The landowner is at liberty to do what he or she likes with the asset and does not need planning permission to make any changes. Is something more akin to planning consent needed for forestry and woodlands? Should they be designated similarly to how listed buildings are designated? Is that what you look to achieve?

Audrey Baird: Yes. Our natural assets such as our ancient woodlands are not protected in the way that our scheduled ancient monuments are, but we rely on them for life. Ultimately, what you suggest would be great.

Paul Sweeney: So how we treat our built heritage is a valid comparator.

Fiona Baker: Listed buildings have protections but scheduled ancient monuments have much more legal protection. Something akin to scheduled ancient monument status would be more appropriate for woodlands than something akin to listed building status.

Paul Sweeney: Should that be carried out on a national basis rather than being left to individual councils, which might have radically different attitudes?

Fiona Baker: It should be a national system. Our opinion is that it should be Scots law.

Paul Sweeney: When the listed buildings system was first introduced, a national survey was done of all potential candidates and the list was compiled by experts at the Royal Commission on the Ancient and Historical Monuments of Scotland. Does something similar have to happen for trees and woodlands? Is there also a role for public nominations of potential sites?

Audrey Baird: That is a good idea. The more that we can involve communities in identifying their ancient woodlands the better. If they do not know where they are, it is difficult for them to know what the characteristics of an ancient woodland are.

Fiona Baker: The inventory or register should include native and semi-native self-generated woodlands. Our ancient woodlands have become fragmented—some of them are just tiny pockets—but it is still worth protecting and trying to preserve and regenerate them. We hope that any register would also consider the regeneration of ancient woodlands. In terms of carbon capture, they are our best bet for the future, not a short-life conifer cash crop.

Paul Sweeney: Is there any provision in law to deal with conifer contamination? Is it not treated in the same way as other contaminations?

Audrey Baird:

To meet the UK forestry standard, you should deal with any invasive self-seeding spread.

Paul Sweeney: Is there no enforcement of that?

Audrey Baird: It does not look like it.

Fiona Baker: There is. It is against the law to allow any invasive or non-native species to spread or grow outside of its zone, but the forestry industry is exempt.

Paul Sweeney: That is really helpful. I just needed to get it clear in my head. Thank you for indulging me, convener.

The key point for me is the lack of enforcement. I was concerned that the petitioners mentioned that Scottish Forestry was initially gung-ho about enforcement in the case

in Argyll and then seemed to have a gentleman's agreement to let it lie, which is a bit problematic. There is also the question of how we enforce more robust measures, like we do with ancient monuments.

That helps to clear the matter up for me. I do not know about the rest of the committee.

The Convener: I will touch on something that I noted in the petitioners' most recent written submission. We have talked quite a bit about commercial forestry and issues arising from that, but the submission also touched on mountain biking. I am not a mountain biker. Those days are behind me. However, as it happens, I do quite a lot of walking in the Alps, on the continent, where I have seen a fairly massive expansion of mountain biking as a pastime.

It is interesting to me that, in France, Switzerland or wherever else, an awful lot of Scottish families participate. I am aware of that because of being suddenly struck by the accents. There is a very strong Scottish thread through it. It is interesting for those of us who are walking in the Alps or wherever, going down, to see the various biking trails that have been put in place, which tend to be designed to get from the top to the bottom in the fastest possible time. They are not stopping for a picnic halfway down; they are getting to where they have to get to. Clearly, that is an emerging and growing sport, and the thrill of it is that it is not through open country but through forested country—the whole thing is in the cuts and turns of doing it.

Given that that appears to be an emerging, growing and popular sport, for which there could be an ever-increasing demand, how do you see its being accommodated? It will have to be accommodated, if it is popular. How should such a thing be accommodated within the landscape? Where is it appropriate and where would it be better not to facilitate it? Does it need to be managed in some way, rather than just produced on a whim?

Fiona Baker: There is no doubt that mountain biking is really popular. In Highlandman's wood, which is the conifer woodland close to us, there are many mountain bike trails, which have been set up by the local mountain biking group, with the forestry company's permission. It absolutely can be and needs to be managed. To go back to archaeology and cultural heritage, there are mitigations. In any set of planning conditions, there are ways to mitigate everything.

We looked into the mountain bike trail that was being built in the bluebell wood. I cannot remember whether it was the mountain bike council of Scotland, or what the organisation was called, but it had quite a lot of guidance about building mountain bike trails—how to do that safely and things not to do. A lot of things about the trail would be considered dangerous and would not be done on a professionally built trail. If people had fallen and broken their necks, the landowner would have been liable.

It is a pretty developed sport and activity. There are ways of managing it. It is like building a hydro scheme or a wind farm, or as forestry should be: for example, acid flushes, archaeological monuments and ancient trees are avoided. It needs to be managed. The mountain bike council—I cannot remember exactly what it is called—would probably welcome Government assistance in creating standards. It is an Olympic sport, too. It can be done in a managed way.

The Convener: It is a fascinating thing to watch. I have to be honest and say that I walk down the mountains, not up; I tend to go up in a chairlift or a cable car, which allows me to look down on all the people who are doing the biking. A lot of reinforced body armour is associated with it now, because they expect to be thrown off their bikes at various points. However, as you said, it is an Olympic sport; it is one that is very much growing and for which there will be increasing demand. That was an interesting observation about its having an operating authority, which we might want to pursue.

Paul Sweeney, you wanted to come back in—just briefly, because we are coming to the end of our time.

Paul Sweeney: Yes, convener. I briefly emphasise the point about what seems to be a grey area. The Cathkin Braes country park BMX trail, for example, was done as a result of planning permission for the Commonwealth games. I am astounded that such a development does not require planning consent. If a ski slope was developed in Glenshee, for example, planning consent would be required. There should be further investigation into where we draw the line. Why are councils not looking at that issue, perhaps not in relation to legislation but as a gap? There is also the issue of enforcement when people just do stuff without seeking planning permission.

10:45

Audrey Baird: If the site is deemed to be a dirt track and no additional materials are to be brought into the wood, planning permission is not needed. The fallen timber and, unfortunately, the stone dyke that had originally protected the wood were used as materials to create the bike track. That was not illegal, given that the landowner had given permission for it.

The Convener: As we come to the end of the evidence session, I want to give the witnesses the opportunity to mention anything that we have not touched on. Obviously, we will have the round-table session shortly, and I know that you are going to stay in the public gallery to observe that. Is there anything that you would like to add to our thinking?

Audrey Baird: I will make a couple of brief points. Estate agents market Scotland's marginal land as though it is in some way less important than productive land. However, the marginal land that is advertised for tree planting is essential for

biodiversity, wildlife, tourism, walking and biking, as well as in allowing people simply to appreciate our beautiful country.

In the past couple of weeks, we have been reminded once again how important it is for local people to value their country. Obliterating it with monoculture evergreens and taking away all its colour, character and beauty is doing absolutely nothing for Scotland.

In the past couple of months, Confor undertook a survey of attitudes to commercial forestry in the Highlands. It reported that nine out of 10 respondents were very favourable towards additional forestation, but did it explain to those people the risks that are associated with commercial forestry, such as its invasiveness and the fact that it is non-native? I very much doubt it.

With respect, I think that, given that hearts and minds still have to be won over, an earth-first campaign is urgently needed to persuade everyone that old-growth woodland and other important nature resources are essential for life on earth.

Fiona Baker: Audrey Baird mentioned estate agents, which include Strutt & Parker. In the past year, the price of marginal land has increased from about £2,500 to £5,500 per acre—more than £3,000. That is all to do with the rush for forestry and the get-rich-quick schemes, as we know with Gresham House and in relation to all the stooshie with the Scottish National Investment Bank, which Jackie Baillie has referred to.

Agricultural communities are starting to be priced out and disenfranchised. The subject has already hit the headlines in Wales, and farming communities in Scotland have said that it might lead to another Highland clearance. There are more and more issues around it. Mistakes are being made, so we need to stop, review and understand the real impacts of the massive expansion of monoculture forestry on the climate emergency, health, wellbeing, the economy, biodiversity and the patrimony of our nation, which is very important to us all.

The Convener: Thank you, both, very much. I know that it was a very early start for you. I hope that you can see that the committee is very interested in your petition, which has opened up a number of issues that it would be worth while for us to pursue and further examine in some detail. That process began with your evidence this morning, and it will now continue with the round-table discussion. We will liaise with you as we take the petition and the discussion further forward.

I suspend the meeting briefly.

10:49 Meeting suspended. 10:57 On resuming—

The Convener: Welcome back. We resume our consideration of PE1812, on Scotland's remaining ancient, native and semi-native woodlands and woodland floors. We heard just a few moments ago from the petitioners, Audrey Baird and

Fiona Baker, and I am now delighted to welcome to a round-table discussion a number of people who will be able to help us with our deliberations.

We have been joined in the committee room by Andrew Weatherall from the RSPB, Arina Russell from the Woodland Trust and Doug Howieson from Scottish Forestry. Joining us virtually are Claudia Rowse from NatureScot and Andy Leitch from Confor. I hope that everybody can see them on the screens, although if you are at the far end of the table, it is quite a reach. I welcome you all.

We hoped that we would be joined by our colleague Jackie Baillie, but she is in another committee meeting and is unable to get here at this point.

This is the first round-table discussion that the committee has held in the current session. It has all been virtual up to now, so it is great to be able to have witnesses with us in person.

Rather than going round everyone on every question, I ask witnesses who want to contribute on a particular issue to catch my eye or the eye of one of the clerks, who will let me know that you would like to comment. Our two witnesses who are participating virtually should put the letter R in the chat box. The clerks will look out for that and they will intimate to me you would like to join the discussion. The microphones will be operated by our broadcasting team, so there is no need for those of you who are in the room to press any buttons or get preoccupied about that.

We heard from the petitioners about the value of ancient native woodlands and whether adequate protections are in place given the big expansion of commercial forestry and the potential that ancient woodlands have for recreational use. What is your reaction, in general terms, to the essence of the petition? What are your views on the biodiversity of ancient, native and semi-native woodlands? What is their value to Scotland? Why are the woodland floors that support them also important? By way of introduction, I will bring in each of you in turn to get your comments on those questions.

11:00

Andrew Weatherall (RSPB): There are quite a few different parts to that question. On the value of the petition, I think that it is really timely and important, and I thank Fiona Baker and Audrey Baird for lodging it. I was shocked to read in the excellent report that the Woodland Trust published last year on the state of the UK's woods and forests that, since 1999, 270 woodlands in Scotland have been lost to or damaged by development. I had no idea that the number was so high. I was really disappointed to see that 72 or 73 per cent of those that were threatened by development were subsequently lost. That is much worse than the position in the other devolved nations of the UK. Across the UK, 45 per cent of woodlands have been lost. There is a desire to protect ancient woodlands and there are lots of

references to that in Government literature, but it is clearly not quite working at the moment.

There is lots of evidence on the biodiversity value of ancient woodlands. Scotland's forestry strategy mentions the value of ancient woods, and I have been reading a paper from last year by Elisa Fuentes-Montemayor and others about the special structural value that aids the biodiversity of ancient woodlands. They suggest that new woodlands do not begin to take on those characteristics until 80 to 160 years after they are planted. From the point of view of addressing the climate and nature emergencies, ancient woodlands are a precious resource and we need to address their protection.

Arina Russell (Woodland Trust Scotland): I thank Audrey Baird and Fiona Baker for lodging the petition and I thank the committee for the opportunity to discuss it in the Scottish Parliament today. Fiona and Audrey are ordinary members of the public who are very determined and passionate. The Woodland Trust is really grateful to them for their passion and determination and their continued dedication to ancient woodland protection, and we thank them for bringing the matter to the Parliament.

As a leading native woodland conservation charity in Scotland and the UK, we believe that the current protections for ancient woodlands are not sufficient. We know that their condition is unfavourable in some cases and that planning policy is not watertight enough to give our ancient woodlands the protection that they deserve.

Ancient woodlands are extremely biodiverse habitats. The forestry strategy for Scotland recognises them as the habitats that contribute most to biodiversity. To put it simply, they are irreplaceable. Once they are gone, they are gone. They cover less than 2 per cent of our land area, so we should be able to protect them better than we do.

Scotland's rainforests and Caledonian pinewoods also have cultural value. Scotland's rainforests have species that are not found anywhere else in the world. We owe it to the world to protect those species and this precious habitat.

Our ancient woods are also important carbon stores because they have been in existence for so many centuries. They have been shown to hold, on average, 30 per cent more carbon than other types of woodland. Beyond their biodiversity value, we should also take into account their cultural and carbon value when we consider policies for ancient woodlands and forestry in Scotland.

The Convener: Thank you. I will bring in the first of our virtual contributors: Claudia Rowse from NatureScot.

Claudia Rowse (NatureScot): Good morning. I hope that you can hear me. Like others, we welcome the petition being lodged. It is timely as we look towards

developing a new biodiversity strategy for Scotland and at how we can halt the loss of biodiversity in the next 10 years and restore it by 2045.

I echo what others have said about the value of ancient woodlands for biodiversity. They are some of Scotland's most valuable woodlands and they support a range of species of flora and fauna, whether that is in our Atlantic rainforests, as Arina Russell mentioned, or the upland oak woods, ash woods and birch woods. Structural diversity is also very important, and we recognise that in our site condition monitoring process, which monitors structural diversity as an important component of functioning woodlands.

I will flag up another point that has not been mentioned. At the moment, 25 per cent of Scotland's natural woodland area is protected by existing nature conservation designations, which is a significant proportion. With the Scottish Government's commitment to protecting 30 per cent of biodiversity by 2030, we are in a reasonable position on the protection of natural woodland.

Doug Howieson (Scottish Forestry): I have some data from the native woodland survey of Scotland in 2014. That survey recognised that there are 311,000 hectares of native woodland in Scotland, which is 22.5 per cent of the total woodland area. Another 120,000 hectares of woodland were present on ancient woodland sites, of which 65 per cent were native. Some of that is now plantation on ancient woodland sites. As foresters, we believe that ancient and native woodlands are some of our most treasured and beautiful woodlands in Scotland. They are iconic in their setting and they are fantastic places in which to spend time. As foresters, we would regret any further decline in the ancient woodland resource in Scotland, because it is so valuable and such a wonderful resource.

The two biggest elements that are endangering ancient woodlands are invasive non-native species and herbivore damage, principally by deer. We have a resource and we will not get any more of it that is of that status for 80 to 100 years. However, in the past four years, we have grant aided the creation of 15,000 hectares of new native woodland. We spend between £1 million and £1.5 million each year on the restoration, protection and enhancement of Scotland's existing native woodlands.

The Convener: Our second virtual participant is Andy Leitch. Welcome to the round table, Andy. I ask you to make a few introductory comments.

Andy Leitch (Confor): Thank you for inviting me along. I think that Doug Howieson had my script, because he has given you all the facts that I was going to share. Ancient woodland is a key resource for Scotland. Other speakers have talked about key habitat structure, so I will not repeat those points. The Scottish Government should be proud of its target of 18,000 hectares of woodland creation per annum. At least 40 per cent of that will be native woodland. Although that will not increase the level of ancient woodland because of the age situation, it is certainly increasing native woodland.

I do not want to repeat what others have said. We totally agree with what has been said about the biodiversity and structural value of the ancient woodlands.

The Convener: I invite David Torrance to lead us into an area of discussion.

David Torrance: The Woodland Trust has campaigned for years for the protection of ancient woodlands. Has any progress been made on the commitments that were made by the Scottish Government? Will they offer greater protection?

Arina Russell: I guess that that is a question for me. The roots of our organisation are in protecting ancient woodlands; that is what we were founded to do. There has been progress, but the area that is most obvious is possibly the increased protections in England through the national planning policy framework. There is also an ancient woodland inventory in England, which is a map resource on the extent of ancient woodland in England. They are mapping habitats and updating that inventory at the moment.

There are issues with wild planning protections in England, although they have improved. Our experience is that we are seeing fewer direct impacts from inappropriate development, but more indirect impacts. We are seeing developments that are causing decline in woods next to ancient woodlands rather than directly in ancient woodlands. We are conducting a review of the past three years of evidence on planning applications that have affected ancient woodlands United Kingdom-wide, and we will share further data with Government and the committee if that is needed. I do not have an exact date when that will be available, but it will be in due course.

What was the second part of your question?

David Torrance: Will commitments by the Scottish Government offer greater protection to ancient woodlands?

Arina Russell: The Scottish Government has made commitments to protect and restore Scotland's rainforest, which is really welcome. It has also made the commitment that 30 per cent of land will be protected by 2030. There is a commitment to restore our riparian woodlands, and the current draft of the national planning framework 4, which is with the Local Government, Housing and Planning Committee for scrutiny, contains improved protections. It is a draft document, but we hope that the wording will stay as it is or be slightly improved. There is a "should" that could become a "must" in order to make the policy as watertight as possible. If the national planning framework 4 is approved and a final version comes out, we will be in a better place in relation to protection from development.

As my colleague Doug Howieson mentioned, the biggest threats to our ancient woodland are overgrazing, mostly by deer, and invasive non-native species, particularly *Rhododendron ponticum*. At the moment, there is no overarching strategy, aim or clear direction to address those issues, although there are commitments. We are having on-going dialogue on the issues with Government but,

given that we are in a nature and climate emergency, we would like to see more action on the ground to accompany the commitments, which we welcome. We just need to get on with it.

David Torrance: My next question is on NPF4. You said that improvements could be made to it to protect woodlands. What improvements could be made?

Arina Russell: The policy that deals with ancient woodlands and, more broadly, with all native woods in Scotland is policy 34, of which paragraph b) says that planning applications or developments “should not be supported” if they would damage ancient woodland, including indirectly. The wording is much clearer than it used to be and will, if it is implemented correctly, go a long way towards improving the situation. It would, however, be ideal if that “should” could become a “must”. That would speak to the aim of there being no further loss of ancient woodland. We would like to see that reflected in the policy.

11:15

Such habitats are irreplaceable and cover only 2 per cent of our land. There is no need to continue to develop them. Our planning policies should not come at the cost of those precious habitats.

How policy is implemented is also important. The wording has been improved in England, but we are aware of cases of the policy not being implemented as well as it could be. We need expert tree and biodiversity officers in local authority planning departments. They will be key in implementing the policy. It is good to have a policy, but policy is only as good as its implementation.

Data is also important. Scotland has only a provisional ancient woodland inventory, so we do not really know the full extent of ancient woodland. We cannot protect what we do not know is there.

To sum up, I say that planning policy has become better, but what matters is how we implement it. We need more data to tell us where our ancient woodland is, so that we can look after it.

Paul Sweeney:

I would like some clarification. During opening remarks, there was consensus about the importance of Scotland’s ancient woodland. For the record, I am directing the question to the witnesses from NatureScot, Scottish Forestry and Confor. Do your organisations agree that the current protection regime is insufficient? I would like to have the answer explicitly established and to hear each of you agree or disagree.

The Convener: Doug Howieson.

Doug Howieson: I am sorry, convener. Do you want to speak?

The Convener: I am letting people know who is speaking. There can be confusion about voices. It is not always clear who will speak.

Doug Howieson: We are about to launch the second implementation plan for Scotland's forestry strategy. One aspect of that plan is that we will work more closely with delivery partners, including NatureScot and other parts of the Scottish Government, on implementation of the plan as it relates to ancient woodland.

We are currently considering how we can pool our resources in order to do the best that we can do, specifically on deer management. Herbivore damage is an existential threat to native and ancient woodland. We had a meeting with NatureScot last week to discuss how we can combine forces to do our best for ancient woodlands, and we made some good progress. There is recognition that the whole is greater than the sum of its parts: we can do better if we work together. We are looking to establish a series of project areas, including ancient woodlands, and to pool our resources so that we do the best that we can do. We have moved forward.

The Convener: Paul—you wanted to ask Andy Leitch the same question.

Paul Sweeney: Yes.

The Convener: First, we will go to Andy Leitch, then to Claudia Rowse, then to Andrew Weatherall, after which we will come back to Paul.

Andy Leitch: Could you repeat the question?

Paul Sweeney: Do your organisations agree that the current protections are inadequate? That is the nub of the petitioner's issue.

Andy Leitch: Yes. As has already been said, the key threats are herbivores and rhododendrons. We must also consider what protection measures we should take, and what impact they would have on other areas. I agree in principle, but the devil is in the detail of how we address the matter. Does that make sense?

Paul Sweeney: That is helpful.

Claudia Rowse: The crux of the matter is what is meant by further protections. As I said, Scottish Forestry figures show that a little under 25 per cent of Scottish woodland is already under formal protection. The Government has a plan to increase biodiversity protection to 30 per cent in the next 10 years.

The impact on woodlands' condition is what is important, which we recognise: 49 per cent of Scotland's natural woodlands are in poor condition. The issue is not necessarily protection, but policy and its implementation. That is what we have been talking about.

I will touch on deer; there is a strategy to address deer impacts more coherently. The independent deer management working group reported to the Scottish Government

and, to implement its findings, new deer legislation is planned in the programme for government. Doug Howieson talked about the forestry strategy side; a new strategic deer group has been set up to take a collaborative and collective approach to managing deer impacts, particularly in order to secure restoration of woodland and its biodiversity values. That is an important element.

The Convener: Paul, are you happy with that answer?

Paul Sweeney: Yes—that was very helpful.

The Convener: Can I come back to you in a moment, then?

Paul Sweeney: Certainly.

The Convener: I think that Andrew Weatherall was going to follow up on what Arina Russell said before we moved to that question.

Andrew Weatherall: I will try to tie the two threads together. The RSPB is calling for greater protection of Scottish nature networks in NPF4. We also want to identify, through NPF4, where there are opportunities for targeted natural woodland expansion, colonisation and, perhaps, some planting.

It is important to remember that we are in a nature and climate emergency. The work that was done last year showed that biodiversity intactness in Scotland is about 56 per cent. The Woodland Trust's work has shown that most ancient woodlands are smaller than 5 hectares. We are talking about isolated and very vulnerable fragments.

It is not just protection that is needed. Because of climate change, pests and diseases, we have to go further—there has to be enhancement, improvement and expansion, as well as a whole package of protection. That includes restoration of plantations on ancient woodland sites. If our ancient seminatural woodlands are our best woodlands, plantations on ancient woodland sites have the potential, when restored, to be part of that resource again.

Wales uses a mapping categorisation called restoration of ancient woodland sites or RAWS—another acronym, I am afraid. That enables mapping of success in converting or restoring ancient seminatural woodland status, which is sort of the best value in ancient woodlands.

When you look at the figures, you see clearly that woodlands are still being lost and damaged by development. Deer and rhododendron are problems as well. It is not enough to say, "We've protected woodlands. That's it", because they will be impacted by things. We have to protect, improve and expand. I think that Doug Howieson would recognise that as something that Scottish Forestry would talk about.

Alexander Stewart: I have a question specifically for Claudia Rowse from NatureScot. Some of the submissions that we have received have mentioned, as a

barrier to protecting ancient woodlands, the lack of resources at NatureScot. That could be having an impact on surveys, monitoring, managing and updating inventories, and dealing with planning applications. Is that an issue that NatureScot recognises? If so, how should it be addressed?

Claudia Rowse: NatureScot's overall resources have declined over the past 10 years, through Government pressures, challenges and priorities. I am sure that the committee is already aware of that.

That said, we have just negotiated our budget and resources for next year, and the emphasis is absolutely on supporting the programme for government and the priorities that have been set out. It is clear that we will provide whatever resources we can provide for woodland restoration, biodiversity restoration, deer management and other issues that have been mentioned.

Funding will always be a constraint. We cannot take action everywhere that we might like to take it. For example, in looking at woodland areas and where we want to prioritise deer management, we will need to look at areas where we can make the greatest impacts most quickly in order to restore biodiversity by 2030. It is important not to forget the longer-term target of restoring nature biodiversity by 2045. As we work through future budgets, there will be more time to look at how resources are allocated.

That is the world that we live in. I hope that that gives members an indication of where we are.

Alexander Stewart: You acknowledge that that issue is a concern, and you have indicated that you have to deal with priorities. In doing that, your organisation must at times feel frustrated that it is unable to progress to the level that it would like to achieve because of financial constraints. The submissions that we have received reinforce that.

Claudia Rowse: It is not only our resources or other public money through Scottish Forestry that are the essential elements. Most woodlands in Scotland are privately owned, so it will be imperative—in taking forward what is set out in the petition, and in improving biodiversity outcomes in ancient and seminatural woodland—that landowners and people who live and work on the land come forward so that we can work with them. The issue is not only about our resources; it is also about landowners, land managers and communities, and bringing them with us.

Ruth Maguire: I have heard everyone say that deer management and invasive plants—rhododendron, for example—are the greatest threats, but we have spoken a lot about encroachment of commercial plantation tree species into ancient and native woodlands. I would like to hear the witnesses' opinions on that. My first question is specifically for Doug Howieson from Scottish Forestry. What do you do to prevent

that encroachment? How are you tackling that with new plantations? What are the opportunities to address the issue through “The UK Forestry Standard”?

Doug Howieson: There were a few questions in there. In general, there are localised areas in which seeding in of commercial species occurs. We do not see that in all our ancient woodlands in Scotland because of their fragmented nature and their locations, but we recognise that encroachment is an issue in some areas.

As part of the forestry grant scheme, we have a woodland improvement grant, which does a number of things. Part of it is to do with habitat and species management and improvement. It provides specific capital grant funding for the cost of removing conifer trees and unwanted species from ancient woodland. This year, the total grant is £1.8 million. Therefore, we have that covered. In general, the call on that grant is for two things: for fences to exclude deer and for exclusion of the *Rhododendron ponticum* invasive non-native species. Generally, we do not see—

11:30

Ruth Maguire: And that grant is available to landowners for improvements. How is its availability publicised?

Doug Howieson: The Scottish Forestry website gives access to all the information about grants. We have also have five conservancies in Scotland and a number of woodland officers who regularly deal with inquiries from customers and clients.

Ruth Maguire: Thank you. I am sorry for having interrupted you.

Doug Howieson: The vast majority of the spend is on deer management through deer fencing and on removal of rhododendron. People get a capital grant for clearing rhododendron, but the biggest problem for us is that, because it is invasive, it regrows. We will probably need to think about a future grant scheme that provides funding not just for cutting the plant away in the first place, but for managing regrowth.

“The UK Forestry Standard”, which is the technical standard for the four United Kingdom Administrations, is currently being reviewed, with the latest version being due for publication by December. By far the biggest issue in that respect is the percentage of native trees that are allowed in a scheme. For example, when someone wants to plant conifers, we always insist that at least 25 per cent is made up of native tree species, other more diverse conifers and open space. The biggest issue with the UKFS is whether the proportions are right and whether the single-species element should be reduced. We have to balance that with sustainable economic growth in forestry which, after all, contributes at least £1 billion gross value added to Scotland’s economy. There needs to be a discussion about that.

I therefore do not see the UKFS as the principal mechanism for resolving the impact on ancient woodlands. Instead, that will happen through Scottish Forestry's strategy, the implementation plan and our work with delivery partners.

Ruth Maguire: I suppose that I know the answer to this question, but why would a landowner not wish to implement that best practice, and what can we do to encourage them? For example, I was surprised to hear that the proposal for a bit of community woodland was refused. Can that sort of thing be addressed through stronger planning approaches such as community benefit clauses? How do we encourage those who do not wish to do the best, to do the best? I agree that commercial forestry is important to our economy, but we have to ensure that it does not come at too high a cost.

Doug Howieson:

I am not aware of the specific case that you have referred to, but I can come back to you on that if you can provide me with some detail.

As for the community aspect, our minister Màiri McAllan has made it quite clear that, along with climate change mitigations and the biodiversity and climate crisis, what is important is community engagement, community benefit, just transition and community wealth building. As a result, we are developing our public register, which is a consultation mechanism for woodland creation, felling permissions and long-term forest plans. Through that, we will strengthen community engagement by linking it to the Scottish Land Commission, guidance on engaging communities with regard to decisions on land that affect them and the land rights and responsibilities statement in the land use legislation. We are seeking to do much more to have much better and much more integrated community engagement, community benefit, woodland creation and sustainable forest management in future.

As our guidelines for grants are well laid out on our website, I do not know why a community group would not be successful in that respect. That does not sound right but, as I have said, I am more than happy to follow that up if I can get the details.

The Convener: I note that Arina Russell was nodding quite a bit to some of that. Do you want to contribute to this conversation, Ms Russell?

Arina Russell: Yes, convener, now that you have given me the opportunity to do so.

We at the trust think that there are two parts to the issue of the encroachment of non-native species such as Sitka spruce on to ancient woodland sites. In the past, there have been plantations on ancient woodland sites. That practice is not being carried out at the moment, which is absolutely an improvement with regard to sustainable forest management in Scotland.

In the past, native woods were underplanted with conifers, creating a plantation on an ancient woodland site, or PAWS. Restoring those sites would bring them back to

being restored ancient woodland. Those sites were planted with conifers and we need to restore them. The Woodland Trust has an example of that at our Loch Arkaig site. That Caledonian pinewood was underplanted and our non-governmental organisation is putting resource into the site to restore it. That work is under way at the moment.

There is also the issue of current Sitka spruce plantations seeding into ancient and native woods, particularly in open habitat. Where we manage a site and the seed source is within our site, we will address the issue and remove it. However, there is also an issue around bigger plantations where there are mature Sitka spruce. They are very good at seeding all around and the seed gets into other people's sites. I do not know about the costs for that. Why should public money be used to remove someone else's seedlings? There might be grants available, but can people go and find those trees before it is too late? Therefore, we have concerns about that.

In the two plantations on ancient woodland sites, we need to put clear targets in our biodiversity strategy to secure the sites and ensure that they are not in critical condition by 2030. I think that it is realistic to restore them or have them under restoration by 2045. However there is also the issue of Sitka seeding. Sometimes it is within our sites and we can manage it, but we need to consider how the issue should be addressed when the seeding goes from one landowner to another.

Andrew Weatherall: I would like to come in with an RSPB point of view on the point that Arina Russell made for the Woodland Trust. I like to think that the stakeholders here in the room have quite good join-up around deer and rhododendron, so the issue predominantly concerns the invasive non-native conifers. It is also an issue for peatland restoration—in the flow country, for example—and on high-conservation-value open habitats. It is not restricted to forestry, so it is perhaps a wider issue that needs to be considered elsewhere. The issue is that the principle of the polluter pays, which should apply, does not apply, because there is an exemption for these non-native conifer species. My understanding is that that is because they are used in commercial forestry.

The UK forestry standard is a well-intentioned document that I think improves with every iteration. As stated, it is under review at the moment, so we look forward to more changes around maximum numbers of a single species and other issues. However, one of the main challenges is that it stops at the forest edge. It is about the management of the woodland, not what is beyond, which could be open habitat, peatland restoration or somebody else's ancient woodland. In this instance, the issue is wider than forestry and more about land use strategies, of which forestry is one important component. That gives a bit of context from our perspective.

Paul Sweeney: This has been a very interesting discussion, because it is establishing where the balance lies between providing positive incentives for people to undertake best practice in management and ensuring that there are sufficient

penalties for malpractice. I will be interested to hear witnesses' views on where that balance should lie.

The petitioners presented an example from Argyll of a private landowner who had cleared 21m³ of ancient woodland and was reported to Forestry Scotland. An enforcement exercise was pursued, but apparently that has quietly been dropped. The penalty is something like £5,000 per tree felled—I think that that is the level of penalty that is levied. I am concerned that enforcement was not pursued for quite an egregious breach of the 2018 act. Is there a problem with enforcement?

The point was raised about public money being used to clean up other people's mess. Do we have a perverse situation in which the community is cleaning up for private interests that profit from the land but do not contribute anything to cleaning up their contamination or bad practice?

Claudia Rowse: I was going to pick up the previous question, so I do not have an answer to Paul Sweeney's question about the regulation and incentives.

I will clarify the point about the impact of encroaching tree species from plantations. The only evidence that we have is that, although it happens, the impact is relatively small.

The Convener: Would someone like to pick up Paul Sweeney's question?

Doug Howieson: We certainly do not condone the clearance of 21 hectares of ancient woodland.

Paul Sweeney: It was cubic metres, not hectares—that would be extreme.

Doug Howieson: We would always pursue such incidents. If it has not been consented through planning, we will pursue for illegal felling, but if it has been consented through planning, that tends to trump the legal felling process for us. However, we place a restock direction on people who have felled ancient woodland or any woodland that is protected to ensure that they replant it. Generally, we like that to happen where it has been felled but, sometimes, it can happen in a separate location, but not on an ancient woodland site. I will follow it up.

Paul Sweeney: That is helpful. How easy is it to enforce that or to compel the landowner or landlord to comply with those instructions?

Doug Howieson: It is fairly difficult to be successful on an illegal felling prosecution, so we need to choose our cases carefully, because we want to ensure that we get a prosecution. Part of the 2018 act that came into force on 1 April 2019 allows us in a majority of cases to issue a restock direction, because it is so difficult to achieve a prosecution.

In a prosecution, you get into discussing all manner of minutiae such as when a tree is dead and when it is alive, so the restock direction is a means to overcome those

difficulties. It enables us to say to the person concerned that, even if we decide not to prosecute, we will issue a restock direction, which is a legal compulsion on them to replant. They can appeal against it and that appeal can get bogged down, but the restock direction is another tool for us to use to help to protect not only ancient woodland but all woodland.

Paul Sweeney: That is helpful. The issue with restocking is that, if someone has felled a load of trees that have been around for centuries, it will take another 100 years for the landscape to recover. It feels like the damage is done permanently, at least in a human's lifetime.

Doug Howieson: If we know that the felling is going to take place and we can get there before it is completed, we can issue a legally binding stop notice to stop any further activity. If we do not know that the trees in an ancient woodland have been felled until it has happened, we are as upset as anyone else is. The best that we can do is to get it replanted as quickly as possible.

Ancient and native woodlands are special places. There is a seed bank in the ground, so they will regenerate. Mother nature is a wonderful thing. However, if we can get there before felling happens, we can issue a stop notice.

Paul Sweeney: Would a fixed-penalty scheme to immediately impose a financial penalty on such an infringement help to drive behaviours better? If there was a beefier or more robust sanction on bad practice, it would probably drive behaviours. As you said, prosecutions are difficult to achieve, so you might end up in a situation where prosecution is hardly a viable sanction and you are trying to close the stable door after the horse has bolted.

Doug Howieson: A couple of years ago, we managed to get a prosecution for illegal felling in Grampian. That person has a criminal record and was fined £5,000. I would not like to have a criminal record, so there is some teeth to enforcement. We manage to get prosecutions, but it is difficult.

11:45

Arina Russell: Earlier, Doug Howieson, I think, made the point that, if someone has consent through planning permission, they can go ahead and fell the wood. At the beginning of the session, we said that our planning protection policies are improving, but the current policies are not affording enough planning protection. It is more than a little unclear whether planning permission can trump the need not to fell ancient woodland.

We often get contacted by members of the public about cases of suspected illegal felling. We have had positive communications with colleagues in Scottish Forestry conservancies who have gone out to investigate as soon as possible. The communities are the eyes and ears on the ground, so they let us know about cases

and we advise them on what to do. Scottish Forestry is contacted, and it serves stop notices.

Ideally, we would not get to that point. Our aim that there be no further loss of ancient woodland should be well communicated. We need to do more to let people know that the loss of ancient woodland or other irreplaceable habitats is absolutely unacceptable.

We are aware of cases in which the felling was considered to be too insignificant to go through all the motions to get to prosecution. However, in many cases, appropriate action has been taken. It has been helpful to work with colleagues in Scottish Forestry conservancies on the issue. We have had positive experiences, but I know that not everyone has had them.

The Convener: An hour has evaporated pretty quickly. Before I bring the session to an end, I ask each witness to give any reflections on the conversation that we have had or to make a point that they think we have missed or not focused on enough.

Andy Leitch, we have not heard from you for a while, so I will come to you first. You have been able to hear much of what has been said. Would you like to leave us with a final thought?

Andy Leitch: I will add one or two things to the previous conversations. We have talked about how private landowners contribute to the management of ancient woodland and so on. The grant scheme is well recognised for the woodland improvement grant, which is probably why most of our landowners are applying to fence rather than to do anything else. That goes back to the recognition that herbivores are the largest threat to ancient woodland, so private woodland owners are looking to fence out deer. That is why the woodland improvement grant is very important to us.

On the incursion in relation to the introduction of seed-source species, whether that be spruce, hemlock or, in fact, sycamore, I was pleased that Claudia Rowse made the point that those are local issues, which are not prevalent across much of the country.

Those are the main points that I want to make.

Andrew Weatherall: A question might have been asked about international examples. I do not have any, because I want Scotland to be the international example of leading on ancient woodland protection and improvement. I have a UK-wide role at the RSPB, and I would like to be able to go to the other devolved nations and say, "Look at Scotland," especially following the Glasgow declaration on forests and land use, which prioritises conserving and improving natural woodlands.

My final point is that this year is the 30th anniversary of the earth summit in Rio de Janeiro. In that summit's report, principle 3 states:

“The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”

My argument is that the best time to protect and improve ancient woodlands was 30 years ago, but the next best time is right now.

Claudia Rowse: My last point is to re-emphasise what I think everyone is agreed on—the high biodiversity value—and to say that we welcome the petition. The other key point is that a lot has been done to work on the protection and improvement of biodiversity, but there is a lot more still to do, and the next 10 years is going to be critical in implementing the issues that we have been discussing in order to halt biodiversity loss. The policies are in place and are coming forward in the parliamentary programme. A new environment bill is going to have statutory targets for nature, which will also be important. The steps are there, but on-going scrutiny is needed to make sure that we are all held to account and that they are implemented.

The Convener: Excellent. Thank you very much.

Doug Howieson: First, I thank the petitioners and the committee for giving us the chance to have this conversation. It has been great.

Secondly, I thank Claudia Rowse and NatureScot for reaching out to us to work together as delivery partners. The threat of deer to our ancient woodlands is huge, and we have to get to the bottom of that.

Thirdly, if the committee has not spent any time in an ancient or native woodland, go to the native woodland survey of Scotland on the internet, find your local ancient woodland and go and stand in it. It is fantastic.

The Convener: Out of interest, where is the nearest native ancient woodland to where we are just now?

Doug Howieson: It is probably on the outskirts of Edinburgh.

The Convener: Maybe we will go. I am all for an outdoor outing. It might be quite useful to us.

Arina Russell: On that point, I guess that I could extend an invitation to Woodland Trust Scotland sites, should the committee wish to have an outing. We would be delighted to host you, and we have the privilege of looking after sites up and down Scotland—including rainforests, which are fantastic to see—so please visit.

I am glad that there is agreement on the deer management issue. We stand ready to work together. It will require collaborative effort to do that.

We would like to see a policy aim of no further loss of ancient woodland. As Claudia Rowse from NatureScot noted, the biodiversity strategy is coming up. We would like not just ancient woodlands but all of nature and biodiversity to be better prioritised

and better funded if we are to address and reverse nature's decline. However, in that biodiversity strategy, we need targets for protecting and restoring our ancient woods. That is our next best opportunity.

We also have the opportunity to include legal protections for ancient woodlands in the upcoming environment bill, which is expected in the third year of the parliamentary session. We are grateful for that commitment to bringing forward a bill with nature restoration targets. We welcome the Government's amendments on Scotland's rainforest, the ancient woodland register and deer management. As I said, we are all waiting. We want to collaborate and we want to provide expertise as a leading environmental NGO. The Parliament needs to ensure the on-going scrutiny of those issues and of the implementation and delivery of those commitments.

Finally, I am grateful for the opportunity to give evidence to you today, and it has been lovely to be back in the Parliament, after what has been too long. Thank you.

The Convener: Thank you all very much. It has been incredibly helpful. Given that we are coming into the summer, I like the idea of sensing the thing for ourselves—because, potentially, we all think that we know about it; certainly, we all have an investment in it; and, from everything we have heard, there are some serious issues underpinning the petition that the committee will want to reflect on in the light of all the evidence that you have given us this morning and that we heard from the petitioners.

I thank you all—those who have come here and those who have joined us virtually. That has been very helpful. I briefly suspend the meeting.

11:54 Meeting suspended. 11:57 On resuming—

Annexe C

Submissions received from the Scottish Government

Scottish Government submission of 13 August 2020

Ancient woodland is a term used to define categories of woodland, all of which are likely to be of value for their biodiversity and cultural value by virtue of their antiquity. Ancient Woodland is defined as land that has been continually wooded since at least 1750 to the present day. Whilst there is no specific legislation to protect ancient woodlands there are a number of measures to ensure that they are protected.

Firstly, many such sites are protected through designation as Natura 2000 and Sites of Special Scientific Interest (SSSI). Several key features of ancient woodland sites are designated 'features' within Special Areas of Conservation (SACs) or SSSIs which engage important statutory mechanisms for protecting sites of ecological interest in the UK. For example, key Alder and Western Atlantic oak woodland sites are protected as SACs, and upland ash, pine and birch as SSSIs.

Protection for woodland is also in place via felling regulations under the Forestry and Land Management (Scotland) Act 2018. These were strengthened in 2018 to give additional protection to small areas of woodlands. The regulations now state that any felling in discrete native broadleaved woodland, between 0.1 and 0.5 hectares in area, requires a felling permission. It is only in exceptional circumstances however, that a felling permission would be granted for an ancient woodland of any size. Where a felling permission is granted, specific conditions may be attached to it.

Generally there will be standard conditions relating to the restocking of the site, but additional conditions can also be added when required. These will relate to specific matters, notably for ancient woodland, to avoid or mitigate impacts on the environment or biodiversity. Scottish Forestry additionally has new powers under enforcement. A successful

prosecution no longer needs to be procured to ensure that there is restocking on a site that was felled without permission. This allows a Restocking Direction to be served where an investigation shows that the felling was not legal. This can be followed up with a Remedial Notice which gives “step-in” powers should Scottish Forestry want to undertake the work. Non-compliance with either of these is a criminal offence and can be prosecuted leading to a conviction and £5000 fine for each offence. Fines can also be issued at this rate per tree if the illegal felling goes to prosecution. Detail on these is available in the Felling Permission – Application Guidance, Section 4.7 Conditions and Section 6 Enforcement.

Further protection exists through the Planning system. Scottish Planning Policy (SPP 2014) describes how nationally important land use planning matters should be addressed across the country. SPP sets out that “Ancient semi-natural woodland is an irreplaceable resource and, along with other woodlands, hedgerows and individual trees, especially veteran trees of high nature conservation and landscape value, should be protected from adverse impacts resulting from development. Tree preservation orders can be used to protect trees and groups of trees considered important for amenity or their cultural or historic interest” and makes specific reference to the Scottish Government’s Control of Woodland Removal Policy.

The Scottish Government’s Control of Woodland Removal Policy only permits removal of existing woodland where it would achieve significant and clearly defined additional public benefits. There is a strong presumption against removing ancient semi-natural woodland, 2 and woodland integral to the value of designated or special sites or areas supporting priority habitats.

There is also a strong presumption against woodland removal where it would lead to fragmentation or disconnection of important forest habitat networks such as within the boundaries of priority habitats, or where it contributes to the functional connectivity of priority and associated habitats.

Under the UK Forestry Standard all native woodlands are expected to be managed to ensure their biodiversity is maintained or enhanced. The

standard expects any management activity to protect or extent semi-natural features, with particular attention given to ancient seminatural woodlands. Felling Permissions therefore would not be approved for any activities that were noncompliant with the Control of Woodland Removal policy or with the UK Forestry Standard.

In addition, there is a duty in section 159 of the Town and Country Planning Act (Scotland) Act 1997 as amended, on planning authorities to ensure, whenever appropriate, that when permission is granted for development, conditions are attached to make adequate provision for the preservation or planting of trees. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. SPP also sets out that, where appropriate, planning authorities should seek opportunities to create new woodland and plant native trees in association with development. If a development would result in the severing or impairment of connectivity between important woodland habitats, workable mitigation measures should be identified and implemented, preferably linked to a wider green network.

The Planning (Scotland) Act 2019 introduced a statutory requirement for authorities to prepare a forestry and woodland strategy. This includes identifying woodlands of high nature conservation value and setting out policies and proposals for their development, expansion, protection, enhancement and resilience to climate change.

Scottish Natural Heritage (SNH) use the planning system to protect ancient woodland through their engagement with the preparation of development plans. They also advise on some cases at the development management stage, specifically where the ancient woodland also has statutory protection (for example when it is part of an SAC, which would be likely to trigger a Habitats Regulations Appraisal) or where an Environmental Impact Assessment is required for the proposal.

Depending on the circumstances, this may on occasion result in SNH advising that particular plan allocations are altered or removed from a Main Issues Report or a Proposed Plan. They advise that such interventions are considered very carefully by planning authorities and

by the Department of Planning and Environmental Appeals. SNH would be happy to provide some specific examples on the approach taken on request. With regard to the specific matter of tracks, any track constructed for the purposes of recreational activity, including mountain biking, may require planning permission, regardless of the method of construction or materials used.

Planning permission may also be required if the planning authority consider there has been a change of use of the land; i.e. from forestry use to recreational use. It is for the relevant planning authority to consider, on a case by case basis, whether any particular development requires planning permission to be applied for. Similarly it is for the relevant planning authority to consider enforcement action where they consider a breach of planning control has occurred.

Scottish Government submission of 21 February 2022

Thank you for your letter of 10 September 2021 seeking further information from the Scottish Government in relation to the above petition. I have been asked to respond, based on the topics covered. Please pass my apologies to the Committee for the delay in responding, as due to a clerical error your letter was only recently brought to my attention.

Update on response to the independent Deer Working Group

Scottish Forestry, an agency of Scottish Government, are working closely with other key partners, including NatureScot who have statutory responsibility for deer management in Scotland, to progress the Scottish Government response to the Deer Working Group recommendations which will ensure there are robust systems of deer management in place within the forestry sector. We have established a project under the Scottish Biodiversity Programme to encompass the legislative and non-legislative components of these recommendations. This will ensure an appropriate level of governance, but will also bring deer management

into consideration alongside biodiversity as the Scottish Biodiversity Strategy (SBS) progresses.

The project includes four key work streams:

Legislative – progressed through a new Bill to create the enabling conditions for more effective deer management;

Incentives – to secure a suitable payment and penalty regime including forest management, agricultural conditionality and moorland management;

Regulation – focusing on how and where to target regulatory efforts, prioritising key landscapes and areas;

Operational delivery – ensuring a cohesive approach on the ground between key delivery partners.

A project board to steer the project has been established, chaired by Scottish Government and comprising senior officials from our Environment and Forestry Directorate, Forestry and Land Scotland, Scottish Forestry, NatureScot, and both the Cairngorms and Loch Lomond and the Trossachs National Park Authorities. NatureScot have taken on secretariat responsibilities. The project board reports to the SBS Programme Board.

The project board meet quarterly and are due to meet next in early March 2022 to discuss taking forward the priority recommendations to ensure there are robust systems of deer management in place in Scotland.

Development of new biodiversity strategy

We have committed to publish a new biodiversity strategy by October 2022, which will define high level outcomes and priority actions that are required in Scotland to address the ongoing decline in biodiversity. This will be supported by a delivery plan published within six months of the new strategy.

We are engaged in a programme of engagement with stakeholders as we develop our strategic vision and outcomes. This engagement got under way in December and will run until April. It has involved both

focused, topic-based discussions in small groups and wider group discussions with our Programme Board Stakeholder Engagement Group. This process will lead to a wider public engagement, with a view to publishing a consultation document in May 2022.

Use of the National Planning Framework to protect ancient, native and semi-native woodlands and woodland floors

Our draft National Planning Framework 4 (NPF4) sets out how our approach to planning and development will help to achieve a net zero, sustainable Scotland by 2045. This includes draft planning policy on Trees, Woodland and Forestry, which states that development proposals should not be supported where they would result in:

any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition; or

adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value or identified for protection in the Forestry and Woodland Strategy.

Views are currently being invited on the draft NPF4 alongside parliamentary scrutiny, following which we anticipate producing a final version for approval and adoption around summer 2022.

The draft NPF4 is available to view on the Scottish Government website at: Scotland 2045 - fourth National Planning Framework: draft - gov.scot (www.gov.scot) .

Information on any legislation we intend to bring forward relevant to the issues raised by the petition

Further to comments included above, we have committed to introducing a new Natural Environment Bill in 2023-24, which will include targets for nature recovery. Formal scoping of the content of that Bill has not yet commenced.

I hope this response has been helpful.

Scottish Government submission of 1 March 2021

Thank you for your letter of 29 January 2021, about the Committee's consideration of the petition detailed above and the request for further information. I have set out below the Scottish Government's responses to the questions in your letter. 1. Scottish Land & Estates point out that the Scottish Biodiversity Strategy target requires that 60% of native woodland are in satisfactory condition by 2020. Did the Scottish Government meet that target, and if not, how does it intend to do so. Scottish Land and Estates submission of 27 November 2020 stated that they believed ancient woodlands were already afforded high levels of legal protection, but indicated that improving woodland condition, a strategic driver in Scotland's Forestry Strategy and a target in the Scottish Biodiversity Strategy, required greater focus and positive support.

The two Scottish Biodiversity Strategy targets that relate to native woodland condition are to i) increase the amount of native woodland in good condition (upwards from 46% as identified by the Native Woodland Survey of Scotland) and ii) Restore approximately 10,000 ha of native woodland into satisfactory condition in partnership with private woodland owners through Deer Management Plans. Progress reporting against the first target is completed through the Delivering Favourable Condition programme. The Scottish Government established the Delivering Favourable Condition Partnership to target resources, through an Action Plan, to improve the condition of designated areas.

The aim is that improvements will be achieved within 3 years of an area's inclusion in the Action Plan. The partnership is led by NatureScot and includes involvement from the public and private sector. Scottish Forestry and NatureScot are working together targeting woodland features currently in unfavourable condition. The proportion of Scotland's protected woodland sites in favourable or recovering condition at 31st

March 2020 was 64.3%. Scottish Forestry have a number of grants that support bringing woodland back into favourable condition such as livestock exclusion, protecting designated sites and SSSI's, controlling invasive non-native species and deer management.

Scottish Forestry will continue to work with landowners and organisations to improve on this target. For example by working closely with Trees for Life to support their Caledonian Pinewood Restoration project and supporting the Alliance for Scotland's Rainforest to improve the condition of Scotland's rainforest. Progress reporting against the second target is led by NatureScot. In their report Assessing Progress in Deer Management - NatureScot report to Scottish Government 2019, restoration of native woodlands delivered through the Deer Management Group assessment process had not been quantified. Their key 2 assessment to show progress against this target was for management groups to manage herbivore impacts'. It was concluded that more Deer Management Groups were setting objectives relating to native woodland condition and were actively considering how to deliver on these objectives, for example by exploring grant availability.

Scottish Government commissioned a review of deer management in Scotland by the independent Deer Working Group. The report, which was published on 29 January 2020, made a number of recommendations.

Scottish Government are giving careful consideration to the report's findings before publishing a response.

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