



Backbench Business Committee

Transcript of meeting

Tuesday 17 November 2015

Representations made before the Backbench Business Committee on Tuesday 17 November 2015.

Members present: Ian Mearns (Chair), Bob Blackman, Mr Philip Hollobone, Gavin Newlands, Mr David Nuttall and Jess Phillips.

Rebecca Pow, John Mc Nally, Huw Irranca-Davies and Victoria Prentis; Nick Herbert, Jeremy Lefroy and Mike Freer; Mr David Davis, Mike Gapes, Kirsten Oswald and Mark Durkan made representations.

Questions 1-13

Rebecca Pow, John Mc Nally, Huw Irranca-Davies and Victoria Prentis made representations.

Q1 Chair: Hello everyone. We can commence early, which is entirely in order. The first application is from Rebecca Pow, John Mc Nally and so on. Could you come forward, please? We don't mind whether it's quantity or quality, but it seems to be both. You have applied for a debate on the protection of ancient woodland and trees.

Rebecca Pow: Thank you for welcoming us here today. We are delighted to be here. Ancient woodland is our richest terrestrial habitat for wildlife, but only 2% of it remains. Some areas of woodland have been continuously in place since 1600 and also include ancient and veteran trees. Mr Chairman, you have nine such trees in your constituency; Bob Blackman, who is not here, has seven; and Peter Bone has three. You have none, Jess. I'm sorry.

Jess Phillips: That's all right.

Rebecca Pow: The other members of the Committee, sadly, have none. I hope that that indicates that those of you who have these magical specimens will want to protect them at all costs. Those of you who don't have any will be covetous of them.

Chair: I am relieved that bonfire night has come and gone and they are still there.

Rebecca Pow: So why should you they be covetous of them? Such trees are living relics. They are awe-inspiring and mysterious. They have affected our history and our heritage. In fact, ancient woodland is the equivalent of our rainforest. It represents the last fragments of the wild wood that once

cloaked the land after the ice age. It is biodiverse and rich in habitat and hundreds of species live within it. It is an irreplaceable part of our heritage. We are talking about not only the trees but the soil underneath, which may hold the key to biodiversity, genetic research and all sorts of things.

So, Mr Chairman, you would have thought that such a precious thing was protected for all time, wouldn't you?

Chair: I have just come off 15 months of the HS2 Hybrid Bill Committee and I know that they are not.

Rebecca Pow: No, it is not protected, Chair. The nation's ancient woodland is under increasing threat from development. In fact, the Woodland Trust represents more than 100 cases of threats to ancient woodland every single year and those are only the ones that we hear about. Once we have lost the woodland, we lose those species that rely on it as well. We have lost 46 species in the past 100 years that were associated directly with ancient woodland. We need to strengthen the planning protection for this precious habitat and resource for the nation, which is why I am calling for the debate. Ancient woodland is not a statutory designation and it suffers from a lack of protection. Trees cannot speak for themselves, which is why we need to speak for them.

Paragraph 118 of the national planning policy framework allows for "loss or deterioration of irreplaceable habitats, including ancient woodland" if "the need for, and benefits of, the development in that location clearly outweigh the loss". That requires amendment. Indeed, the Communities and Local Government Committee in the previous Parliament agreed with that. It said that ancient woodland needed to be given the same protection as grade I and II listed buildings, scheduled monuments and all those precious things. Any loss of them is wholly unacceptable, which is why I am calling for the debate.

Interestingly, at the Environment, Food and Rural Affairs Committee inquiry the other day, the Minister, Rory Stewart, acknowledged that ancient woodland was not a protected category, so we have a lot of room for debate here. Why am I requesting the debate now? Well, as I mentioned earlier, the Woodland Trust is currently dealing with 600 threats to ancient woodland. As a result of that loophole in the legislation, these wonderful places are just slipping through the net.

I am very pleased to say that I have just been made Chair of the all-party parliamentary group on ancient woodland and veteran trees. Since then, I have had people coming to me saying, "We need to protect our woodland. What can we do? We've no teeth." It seems to be something that the public feel very strongly about, and I am pleased to say that my fellow MPs seem to feel strongly about it. I do not think that a single person I spoke to did not think that this was a good idea. I am delighted that I have cross-party support. I am nearly finished and then I will ask my colleagues to chip in.

There is quite a wide range of things that we can talk about in this debate. The whole idea of nature capital is really gaining ground. The Natural Capital Committee highlighted in January how priceless ancient trees are, but it is all talk. There isn't any action yet. This might be the start of the action. The Conservative manifesto pledged that we would build environmental sustainability into our new infrastructure. But is it happening? There are lots of things to talk about. On a wider scale, the sustainability angle would come into the debate, which is where I would like to bring in my colleague, the hon. Member for Ogmere, who chairs the Environmental Audit Committee. We have had a big conference about that recently, haven't we Huw?

Huw Irranca-Davies: We have indeed. To add to the very good summary of why this is an important debate to have, let me deal briefly with the poetry and the prose of this. On the poetry, I was born on the Gower, the first ever area of outstanding natural beauty. The Gower is blessed with at least two areas of large ancient woodland—the Clyne Valley and one other. They are spectacular and, in

terms of their biodiversity and richness, they are of immeasurable value. Now I am in the Ogmire, where we have an old sessile oak woodland, under which is a unique carpeting of bilberries—the most difficult things to pick in the world—to fill a basket with. It is a unique environmental habitat and is protected, thank goodness, by local designations.

A couple of years ago I went down to southern England to look at the Queen Anne oak. I was there with a bearded fellow from the Woodland Trust. He was a volunteer who was probably in his 60s or 70s. In that year, he was the volunteer of the year. It was fascinating to see him take out his measuring tape, 1 metre up, and work his way around the Queen Anne oak, which is one of the most ancient trees in the whole kingdom, to measure it and see how much it had grown since he was last there. As he opened his weather-beaten notebook, I said, “It is a great privilege to be down here. Do you want me to help you?” He showed me, over the past 30 years of tracking this, the importance of that oak because, usually, the older the trees, the better they are for biodiversity—soil quality, habitat and so on. That is why they need to be specially protected.

To go from the poetry of this to the specific scientific reason for having this debate,

the Government have committed to a 25-year strategy on natural capital. For those who are not aware of it, natural capital is the idea that we put a value on nature, in terms of both assets and ecosystem services. This includes flood alleviation, the quality of fresh air, the quality of clean water and also things such as ancient woodlands. This comes down to the fundamental question of what value is put on the Queen Anne oak, the sessile oaks within my constituency, or the woodlands within the Gower. It is a key debate that we need to have in Parliament, as the Government put together their thinking on how we should value the natural environment.

There are arguments and controversies over valuing the natural environment, because some people say that as soon as you put money against something in nature, you undervalue it. Actually, the Government are right in thinking that we need to go through this intelligently. Ancient woodland is the pinnacle of those types of assets that have the most intrinsic value and are irreplaceable. You cannot rip up an ancient oak in one field, and replace it with 100 new oaks in another. It just does not work. That is why this debate is also helpful to the Government’s thinking.

Rebecca Pow: Thank you. Perhaps I could quickly bring in my friend from Falkirk. We have cross-party backing, including Welsh and Scottish support. Tell us why we need you to help us.

John Mc Nally: It is an honour to follow these two very good MPs, who are an education. It took me a wee while to twig, but once I had cottonwooded on I managed to get my act together. I was bound to ask why they wanted someone from Scotland on this, because we have our own tree preservation orders. Rebecca twigged on to why I was asking, and of course we have a lot of good tree preservation orders in Scotland. In my own area, we have a range of Spanish chestnut trees, and when I founded a local heritage society some years ago, we adopted the Spanish chestnut as our logo. Our communities, our children and our schools are now visiting these trees, as Huw has already been said, and they offer a diverse education. One of them is called the hanging tree because it is over 500 years old, and it is in the last years of its life. Again, that is an education.

We in Scotland have a prejudice against cutting down any of these trees. I want to share with and learn from colleagues down here, so that we in Scotland can understand how to better our understanding of these ancient woodlands. I have visited the Fortingall yew tree in Perthshire, which is roughly 5,000 years old and supposedly has a connection with Pontius Pilate or Julius Caesar—I am not quite sure who, but one should never let the facts get in the way of the truth. Again, this is a destination for people. Every aspect of these trees is valuable to the community, especially our younger generation. They become a community resource that should be cherished, and should not be gotten rid of.

Rebecca Pow: You might ask whether everyone will say the same thing and just talk about their precious trees, but actually I don't think that that is the case. Everyone has a different story to tell, and Victoria has her own story to tell from Banbury.

Victoria Prentis: Lest you think we are all barking up the same tree, I was going to focus on something slightly different, which you, Mr Chair, are sadly all too familiar with. That is HS2 and the "replacement" of ancient woodland with a brand new planting of trees. It is obviously a great thing that we plant trees, and we can all unite around that, but that is not quite the same as the replacement of ancient woodland. I want to drill down into that. I also want to look at the situation that arises when it is suggested that replacement woodland should be planted on ancient pasture, which is even rarer than ancient woodland, and whether that is really worth the environmental cost. If this debate were to be granted, I would focus very much on the specifics of that.

Chair: Thank you all very much indeed. You have outlined your desire for a debate on ancient woodland and trees. Are there any questions or comments?

Q2 Mr Nuttall: You have indeed, but you all speak with one mind. Is anybody going to put an alternative point of view? You have clearly said that this ancient woodland is being eroded. One assumes that it is being eroded for some purpose or other. Whether or not we agree with the purpose is beside the point, for the moment. Presumably, there must be a reason why it is being eroded. There may be others who want to explain why this is happening, and who may be in favour of it continuing to be eroded for another good reason which may not be before us today. There is a very impressive list of more than 70 Members who want to contribute to this debate. Are all of them sympathetic to the trees?

Rebecca Pow: You make a very good point and you may find the Secretary of State herself being the one who is going to make this controversial because the other day she said that she thought we had excellent protection for ancient woodland in the planning system. That is one of the reasons that has prompted us to come forward—to prove that, actually, we do not have excellent protection. I know that it is something that is on the edges of what DEFRA is looking at, and a debate would help to move it forward. Of course, I understand—and I hope that colleagues will mention the economy—that we have to operate within a thriving economy and the Conservative manifesto is all about the economy and pushing forward. We have to respect that and we have to understand that there will be give and take, but at the moment it seems to be all take and not very much give. I really think that is why we need to open up the debate.

Chair: I am conscious of time, can we concentrate on very quick answers now please?

Victoria Prentis: I would want to focus very much on practical replacement, in so far as it is possible, of ancient woodland. I would not just be talking about my beautiful trees, I would be talking about what we do instead.

Huw Irranca-Davies: Very briefly, the real nub of this argument, particularly in terms of natural capital accounting, is which things should be tradeable when you have development and which things should not. Ancient woodland is right at the peak of that argument. Many things can be exchanged; ancient woodland is the one that has great controversy around it.

Q3 Bob Blackman: Thank you for your presentation; I apologise that I arrived just as you were making it. The key thing here, in terms of debating time, is that your request appears to indicate that you have a substantive motion, but that you are happy to have a debate in either Westminster Hall

or the Chamber. Could you clarify? If you were offered a slot in Westminster Hall, would you take it? The answer can be yes or no.

Rebecca Pow: Yes. Obviously we would love it to be in the Chamber, because I honestly think it is about time we had a proper discussion about this in our Parliament. I think it is that important; it is rising up the agenda, but it is not on it yet. Obviously, I would love to have any debate whatever, so if you recommend that it should be in Westminster Hall, I will go for that—we would have to slightly alter the motion, but yes.

Chair: It would become a general debate about ancient woodland and trees if it was in Westminster Hall.

Q4 Mr Hollobone: Are you looking for a DCLG Minister or a DEFRA Minister to respond?

Rebecca Pow: That is a good question, which we did discuss. It comes under the remit of DEFRA, but obviously DCLG is responsible for the planning policy framework, so perhaps it is better that we put it on their radar.

Q5 Mr Hollobone: The answer is DCLG, is it?

Rebecca Pow: Yes. Maybe that would be a better plan.

Chair: Thank you for your presentation, we will make the decision later on this afternoon.

Nick Herbert, Jeremy Lefroy and Mike Freer made representations.

Chair: Next up, Mike I have to tell you that the Committee has a particular aversion to Government Parliamentary Private Secretaries making applications.

Mike Freer: That is why Nick Herbert is dealing with it, but I am the chair of the APPG on HIV and AIDS.

Nick Herbert: Thank you very much for seeing us. Just to clarify, the reason the three of us are here is that each of us chairs the all-party parliamentary group for the three major diseases that we are concerned about. Mike is chair of the APPG on HIV and AIDS, Jeremy is chair of the APPG on malaria and I am co-chair with Virenda Sharma, who cannot be here today but supports this application, of the APPG on global tuberculosis. The particular application that we have made is for a debate on the Global Fund to Fight AIDS, Tuberculosis and Malaria—those three diseases. Next month sees the beginning of what is called the replenishment process, which is the formal discussions that take place with donor countries about the resources that will be necessary to support the Global Fund's operation for the next three years. That discussion takes place over a period of months. Towards the end of next year there is a final decision from various countries about how much money they are going to put in. The UK is one of the biggest donors to the Global Fund.

The reason we are keen to initiate a debate now is that we should not leave a discussion about this until the announcement by the UK Government of how much money they are going to put into the Global Fund. As parliamentarians, we want to contribute to that discussion about how effective the Global Fund has been in beating these diseases—it has been incredibly important—and what now needs to be done in order to tackle them.

If I could speak briefly about tuberculosis, which is the one of the three diseases I take an interest in, the world has just set the sustainable development goal to beat TB, along with HIV/AIDS and malaria. Sustainable development goal target 3.3 is for these diseases to be eliminated in 15 years' time. On the current trajectory, tuberculosis will be eliminated in 200 years' time. Almost all the UK resources that are devoted to fighting this disease go through the Global Fund, which is responsible for the lion's share of the programmes and the world's resources to tackle tuberculosis.

So if the global fund is not replenished to a satisfactory level and does not operate satisfactorily, the world's fight against this killer disease, which is now the biggest killer of all the transmissible diseases, of all the epidemics—surpassing even HIV/AIDS—we will be in an even more serious position than we are at the moment. That is why this is an important debate to have at the moment, at the beginning of this process, and because these diseases between them are still killing millions of people globally a year.

The last thing to say is that I don't think we have had this debate in this way in the past. There may have been general debates on international development. There may have been specific debates, for instance, to mark World Aids Day. There may have been applications by individual Back-Bench Members for Westminster Hall debates or other debates on TB or malaria. What we have not had is a debate about all three diseases and the particular role of this major international body, the Global Fund. It has been the subject of some press interest. I think it is time we had a proper debate about its importance, effectiveness and the need to continue to support it in the UK.

Jeremy Lefroy: In the case of malaria, since 2000 the number of deaths has fallen by more than 50%. Although the Global Fund is not the only reason for that, it is certainly a major contributory factor. The UK was one of the founding members of the Global Fund and is the second largest contributor. As far as I know, the UK contributed about £1 billion over the past three years.

It is vital that we look at the fund's effectiveness. There have been criticisms recently in the press and two or three years ago it went through quite a difficult period. We need to look at that, so it is not just a case of saying what a wonderful organisation it is and let's give it much more money. Actually, we need to look at its effectiveness, or indeed whether its time has come. Maybe there are other ways to do this. It is incredibly important, as Nick has said, that we have some input before the main discussions begin next month, with the conclusion in six months' time, because this is a major use of UK taxpayers' money.

Q6 Chair: I must admit that something that struck me at the time of the Ebola outbreak in west Africa was that the number of fatalities from malaria in the same area during the same period was about 10 times as many as from Ebola.

Jeremy Lefroy: It was; that is absolutely right, Chairman. One of the problems was that people couldn't get to the health clinics to get the cures for malaria because of Ebola.

Nick Herbert: TB kills as many people every two days as Ebola has killed in total.

Mike Freer: I would—

Mr Hollobone: On a point of order, Chairman, I am sorry to do this because Mr Freer is a friend of mine. Can I seek your guidance, because in front of me I have advice that says: "Lead members cannot be Ministers of the Crown, Parliamentary Private Secretaries or a principal Opposition Front-Bench spokesperson." I understand that Mr Freer is Parliamentary Private Secretary to the Leader of the House, and surely we cannot have as a lead Member such an individual. I respect

him as chairman of the all-party group on HIV and AIDS, and I think this application is wonderful, but on a point of order, surely this is against the rules of the House.

Chair: That is the convention that we have adopted. We do not normally accept applications from Government PPSs.

Mike Freer: I apologise, Mr Mearns, and I withdraw. I will leave it to my colleagues to make their application.

Q7 Bob Blackman: The answering Department for this—is it International Development?

Nick Herbert: Yes.

Q8 Bob Blackman: In which case, would you be able to take up a slot on Tuesday 1 December, if offered?

Jess Phillips: That is World Aids Day.

Nick Herbert: I am afraid I could not, because I will be attending the global tuberculosis conference at that time. I was actually going to suggest—assuming that by the time I come back, we will have run out of time before Christmas—that early in January would be a better slot from that point of view. Virendra Sharma will be at the same conference, because he is my co-chair, so that would knock out participation in one of the key diseases.

Chair: Thank you very much for your presentation. I do apologise to Mr Freer.

Nick Herbert: We did not appreciate that that was the rule.

Mr David Davis, Mike Gapes, Kirsten Oswald and Mark Durkan made representations.

Mr Davis: Thank you, Chair, for hearing us. I am not going to go through in great detail the extensive note that we put before you, but I will make a couple of, as it were, points of order. I am the Commons chairman of the APPG on drones, and the co-sponsor is the vice-chair, to give you the background.

The aim is, in essence, to create an open debate on the whole question of legality, use and tactical deployment of drones, particularly after the use of a drone to carry out the targeted killing of Reyaad Khan, whose MP, by the way, is one of our supporters. This is an area of considerable domestic and international legal confusion, and indeed there is a degree of opacity in the Government's approach and policy on the use of drones. When the Prime Minister presented the case to the House on the killing of Reyaad Khan, he said that it was justified in law under the immediacy rules; in other words, that he was preventing or stopping a terrorist attack. The explanation of the United Nations, however, used a different set of legal bases.

There is a great deal of vagueness about the use of drones. They are very effective weapons systems. They are, in the view of some people, just a weapons system; in the view of other people, they blur the difference between war and peace, or war and counter-insurgency work. They blur all sorts of differences in terms of counter-terrorism work. It seemed to us that this needed to be

elucidated in the open—that a Minister should talk about what the policies are and what the policies should be, and that people should be able to criticise them. A Joint Committee on Human Rights investigation is about to start into the law underpinning drones, so the debate would inform that as well.

Mike Gapes: The drones issue is extremely complicated, and drones also have a civil application, which raises other issues about who should be able to use them, where they can be used, dangers to aircraft, and intelligence gathering by companies. A whole range of things is now developing, and technology is moving so rapidly that what was inconceivable five years ago might become commonplace in the very near future. The legislation in this area relating to the laws of war, and the whole question of responsibility, needs to be clarified and drawn out. There is a need for an open debate about it. There are a lot of academic studies and lots of people writing in this country and across the Atlantic, but it is not yet properly in public debate; and we think it is necessary to have that debate.

Q9 Mr Hollobone: Are you agreed among yourselves who you would like to see respond to the debate? As I understand it, the ministerial code is the Cabinet Office. The legality of splatting people with drones is probably the Attorney-General. The use of drones is probably the Ministry of Defence. That is a bundle of things to choose from, but I think you are going to have to choose one of them.

Mr Davis: I would not object to any of the above, frankly—but I think the most sensible Department to respond is probably the Ministry of Defence.

Q10 Mr Hollobone: In which case, would you think about amending the title? We do not want to mislead Members about the subject of the debate.

Mr Davis: Except, Mr Hollobone, that the change in the ministerial code has implications. For example, in the case of Reyaad Khan, it was written in the papers—though it was never said publicly—that the operation was signed off by the director of special forces on the basis of intelligence provided. One of the concerns I have in this area is that actions that lead to the death of people, in this day and age and when there is not a declared war, lead to all sorts of civil law consequences for the officers initiating them. We are seeing similar problems in Northern Ireland now, from 40 years ago. It seems to me that the most important place—that is, the implications, or the penalties, of not obeying the law or of not having a clear legal framework, falls mostly within the Ministry of Defence; so it does have an implication for the Ministry of Defence. But I take your point.

Q11 Mr Hollobone: I understand exactly what you are saying, but would not something like rules of engagement for the use of armed drones be a more accurate description of what you are debating, given who you have asked to respond to it?

Mr Davis: We can do that. I have no problem with it, so long as we understand, within the debate, that this issue can be raised. That is the important thing; that is why it is in the title.

Kirsten Oswald: As the right hon. Gentleman has already said, it is vital that we discuss the framework surrounding this. We also need to accept that things have moved on. It is important to recognise that and to consider the situation we are now in, which we have not had the opportunity to

do before. It is also important to consider how the use of drones impacts on the people who operate them, which, again, is not something the House has had an opportunity to discuss. Studies suggest that drone operators are disproportionately affected by stress-related illnesses and I know that there are recruitment and retention issues in relation to drone operators. It is quite a broad subject; the whole range of these issues needs to be debated, but particularly the framework that it all sits in.

Mr Davis: I have had an approach from a senior RAF officer on precisely that issue.

Chair: You have suggested that 90 minutes would be enough. Given the breadth of the discussion, I am wondering whether 90 minutes is appropriate.

Mr Davis: To be honest, we waited in the first instance to see whether the Government would put up a debate on this subject. We thought that that might be more likely and, in fact, more functional. This is almost a test debate to see what the interest is and whether people are really as concerned as I think they may well be. That was the reason for our being unambitious. If you had three hours to give us, we would take three hours, but at the moment I want to be modest in the claim, so that we can see what the response is and what issues come up.

Mark Durkan: Just to stress the point, even if it is reframed along the lines that Philip said, it is important that a relevant burden of the debate can focus on the issue of the ministerial code and the rationale for the action that was taken and what implications that has for the future. People might find it odd, when Parliament has had some of these issues raised in the context of the Prime Minister's statement and elsewhere, if Parliament does not then make it its business to have a debate. Whatever the terms of the debate might be, I hope that it does not preclude us from asking some of the questions and testing some of the issues that need to be tested.

Q12 Bob Blackman: What is the timeliness of this? Clearly, there are concerns about what is going on. From your perspective of applying for the debate, is there urgency?

Mr Davis: There is a clear urgency. The events of the last few days have made it even more urgent, if anything, in terms of the events in Paris and the killing of Jihadi John. This will relate not just to the British use of British drones but the British provision of intelligence for the use of American drones, for example. That is another controversy that spins out of this. I am afraid that the sooner the better is the request here.

Q13 Bob Blackman: Just to clarify, the application in front of us says two to four hours, but you would take 90 minutes in Westminster Hall. Would you be able to take the slot on Tuesday 1 December in Westminster Hall?

Mr Davis: I think I would.

Bob Blackman: The Ministry of Defence answers that week, I think.

Mr Davis: What time of day?

Chair: The morning.

Mr Davis: Yes.

Chair: Thank you. Oh for simpler times, when drones made honey. Order. That is the end of the official business.