



**Friends of
the Earth**
Northern Ireland

Environment Committee briefing

Lisnaragh ASSI

Background

The Environment Minister announced his decision to rescind Lisnaragh Area of Special Scientific Interest (ASSI) on 30 October 2008. Friends of the Earth wrote to him on 17 November, setting out six legal errors he had made in taking this decision. On 24 November, the Minister wrote to the Committee announcing his intention to make a fresh declaration of the site. In doing so, he proposed to make the Bazley report available to the landowners.

ASSI legislation: the Environment (Northern Ireland) Order 2002

- ASSI designation is a statutory duty: it is not discretionary. Article 28(1)(b) states that the Department *shall* make a declaration that the area is an ASSI.
- The Environment Committee is not a statutory consultee in the designation process.
- There is no requirement for Lisnaragh to represent the best example of a glacial moraine.

The Bazley report

The Bazley report describes earth science sites which, although qualifying scientifically, have not yet been designated legally. The Department is legally entitled to withhold the Bazley report because its release could compromise sites by encouraging pre-emptive action to frustrate designation.

Conclusion

The Environment Committee should urge the Minister to withhold the Bazley report. In doing so, he should rely on the defence that its release could compromise sites by encouraging pre-emptive action to frustrate designation.

Friends of the Earth inspires solutions to environmental problems, which make life better for people.

Friends of the Earth is:

- **dedicated to protecting the environment and promoting a sustainable future for Northern Ireland**
- **the UK and Ireland's most influential environmental campaigning organisation**
- **the most extensive environmental network in the world, with over 60 national organisations across five continents**
- **a unique network of campaigning local groups working in over 200 communities throughout the UK and Ireland**
- **dependent upon individuals for over 90 per cent of its income.**

Friends of the Earth, 7 Donegall Street Place, Belfast, BT1 2FN

Tel: 028 9023 3488 Fax: 028 9024 7556 Email: foe-ni@foe.co.uk Website: www.foe.co.uk/ni

Friends of the Earth Limited, registered in London company number 1012357, registered office 26-28 Underwood Street, London N1 7JQ

Beyond Lisnaragh

Northern Ireland has 400 qualifying ASSIs but only half have been legally protected by designation as ASSIs. Ours is the only part of the UK not to have a complete suite of protected sites.

Appendix: the six legal errors

1. Minister: Lisnaragh was not the best example of an ice-age moraine.
Friends of the Earth: the legislation does not require the site to represent the best example of a particular interest feature.
2. Minister: all of the consultation that was required had not been given.
Friends of the Earth: the Board of the Northern Ireland Environment Agency concluded that the consultation had been robust and comprehensive.
3. Minister: the rescission of the site allows a 'window of opportunity to look at the way forward'.
Friends of the Earth: the effect of rescission was to leave the site without any legal protection. If the Minister had wanted to create a window of opportunity, he should have confirmed the designation of the site, with the option to later modify or denotify the site: this would have protected the site during the deliberation period.
4. Minister: there was no time to discuss the concerns raised by the Environment Committee.
Friends of the Earth: the Environment Committee is not a statutory consultee under the legislation, therefore the Minister's inability to consult with it was not a material consideration. Not only did the Minister consider this factor, however, he treated it as paramount.
5. Irrationality: despite the repeated assurances of his officials in the Northern Ireland Environment Agency (NIEA) and his statutory advisors, the Council for Nature Conservation and the Countryside (CNCC), the Minister took what Friends of the Earth would have argued in court was an irrational decision.
6. Bias: the Minister gave an interview to the Belfast Telegraph, published on 16 October, in which he said he would be 'cautious' about declaring ASSIs if the declaration might restrict commercial activity.

Further information

Friends of the Earth's letter of 17 November is published at:
http://www.foe.co.uk/resource/letters/ni_lisnaragh_letter_171108.pdf.

For further information, contact Lisa Fagan on lisa.fagan@foe.co.uk or 90233600 (direct).