



President
Allan Cuthbert

Strategy Officer
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025 July 2019

Re: THE WALES ROD AND LINE (SALMON AND SEA TROUT) BYELAWS 2017 Inquiry

Dear First Minister,

As conservation officer for the Campaign for the Protection of Welsh Fisheries (CPWF) I both presented evidence and attended every day of the above inquiry. My role along with other colleagues from CPWF was to represent some 21 local fishing clubs from across Wales acting, in socialist terms, as shop steward for the hard-working men and women of local communities across Wales who were unable to attend the inquiry and have their voices heard.

Following the inspectors report on the recent inquiry into what is now referred to as 'The All Wales Byelaws' your Minister has approved the byelaws in their entirety. These byelaws will apply restrictions on all the rivers in Wales regardless of their conservation status – not all rivers are at risk despite what NRW claims. The basis of the byelaw proposals was due to poor fry and parr counts in 2015 following significant flood events in previous years which depressed recruitment of juvenile salmon and sea trout. These depressed results were then used in a statistical model which predicted all the rivers in Wales to be 'at risk' in 2019/2020 this risk in 2019 has not been realised on many rivers.

The decision by your Minister to approve these byelaws for all Welsh rivers will see many local fishing clubs close as the method restrictions effectively makes fishing in the small spate rivers of Mid, South Wales and North Wales impossible. I have written to the Minister appealing her decision (copy of the letter attached). Prior to the inquiry our requests to meet with your Minister to explain our case was refused.

There are however some procedural issues which I feel you should be made aware.

I had challenged your Minister prior to the commencement of the inquiry in the way the inquiry was to be run i.e. the use of the Planning Inspectorate and the Planning Appeals Procedure rather than a Public Inquiry under the Inquiry Act. There are also issues around calling this a 'Local Inquiry' when the findings are to be applied to all Welsh rivers, of course by declaring this a 'local inquiry' it has enabled the Minister to use her own department (the Planning Inspectorate) to over see the inquiry and appoint a friendly inspector, details now follow.

On the announcement of the appointment of the inspector for the above inquiry I undertook a Google search on Mr Beggan (the inspector) and found a reference in the public domain from Landmark Chambers a London law firm who were publishing their success in defending a planning appeal representing NRW claiming the inspector, Mr Beggan, had found in favour of NRW based upon the 'precautionary principle'. Whilst

the link still exists on Google the access to the Landmark Chambers servers has since been removed (we have a copy on file).

With this in mind we were most concerned to discover that the planning Inspector appointed by Welsh Ministers had apparently sat as adjudicator in a planning appeal action brought by NRW in a case which we believe to a large extent turned as in the instant upon the doctrine known as The Precautionary Principle. In that case the Inspector apparently sided with NRW. Our concern is not that there has been bias but that this inquiry has manifestly demonstrated the appearance of bias in favour of NRW as we shall address below.

You should be aware that the byelaw proposals by NRW which will restrict catch methods have been robustly opposed by the angling community in Wales. Indeed, the level of opposition required your Minister to hold an inquiry to determine whether they should be accepted by your Government.

We had previously expressed our concern to your Minister that she chose to utilise an appeal procedure conducted by a planning inspector under planning legislation rather than an independent Public Inquiry conducted by an independent and impartial adjudicator. The procedure under the planning legislation is designed to address a local issue not a pan Wales issue affecting your electorate across Wales i.e. a byelaw under UK administration law is both local and limited in its application the NRW proposals are neither as this is a blanket response i.e. primary legislation.

Notwithstanding our concerns your Minister proceeded to pursue the inquiry using the Planning Inspectorate, a department which the Minister has responsibility for. Utilising a planning appeal procedure and appointing an inspector who had previously supported an NRW appeal based upon environmental concerns.

Our concern is that Welsh Ministers have proceeded to utilise the planning appeals procedure as a device to try and procure a favourable outcome for its Agency NRW rather than a truly independent inquiry. Instead an Inspector who has apparently previously found in favour of NRW advancing the Precautionary Principle and with no known expertise in fisheries or their management was appointed.

The subsequent process has adopted an adversarial instead of an inquisitorial approach the manner of which has attracted previous complaint and of which your Minister dismissed out of hand. The inspectors report claims that the inquiry was conducted in an inquisitorial manner. This was far from the truth and whilst as objectors we expected to be challenged, we were faced with aggressive questioning by counsel for NRW, in my case for more than three hours with few if any questions from the inspector. To say that this was inquisitorial beggars' belief. The inspector has dismissed our very real concerns and only considered the case presented by NRW, there are therefore clear indications of bias.

Given the highly contentious nature of this inquiry we are surprised that this association i.e. the inspector previously supporting NRW would have been concealed from CPWF and the general public by both NRW and your Minister had we not made diligent enquiries.

We would perhaps have expected in the interests of fairness and transparency to have been consulted as to whether we objected or consented to the appointment of the inspector who had previously found in favour of NRW. We were not and instead our concerns to your Minister about how the inquiry was to be conducted were dismissed.

Be that as it may we submit that, given the fact that the Inspector has supported NRW in the past on such a narrow point, that there was a real risk of bias or at least the appearance of bias in these proceedings should these facts be known to a member of the public observing proceedings. The dismissive nature of the inspector's report with respect to our objections tends to reinforce our concerns of bias.

Given the inequality of arms of the State and its agents facing unrepresented members of the public this omission is we submit indefensible.

Finally, it is painfully apparent that those representing NRW had been accommodated by the inspector throughout this inquiry to ensure the most favourable conditions in which to present its case.

We were not Appellants bringing an appeal against a decision, this was an inquiry into proposals the recommendations upon which your Minister will rely upon to make a final decision.

This process has throughout been unfair and demonstrated the appearance of bias in favour of NRW.

Regards



Chris White

Conservation Officer: Campaign for the Protection of Welsh Fisheries