Areas of special scientific interest / report by the Comptroller and Auditor General [J M Dowdall].

N I A O

Northern Ireland Audit Office

Areas of Special Scientific Interest

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

NIA 103/02, HC 499 - 27 March 2003

All ASSI photographs and map at Appendix 1 provided by Environment and Heritage Service

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Report by the Comptroller and Auditor General
for Northern Ireland

Ordered by the House of Commons
to be printed 25 March 2003

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HC 499
NIA 103/02

BELFAST: The Stationery Office

This report has been prepared under Article 8 of the Audit (Northern Ireland) Order 1987 for presentation to the Assembly in accordance with Article 11 of the Order. The report is also to be laid before both Houses of Parliament in accordance with paragraph 12 of the Schedule to the Northern Ireland Act 2000, the report being prescribed in the Northern Ireland Act 2000 (Prescribed Documents) Order 2002.

J M Dowdall
Comptroller and Auditor General

Northern Ireland Audit Office
25 March 2003

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List of Abbreviations

ASSI	—	Area of Special Scientific Interest
CMS	—	Countryside Management Scheme
DANI	—	Department of Agriculture for Northern Ireland
DARD	—	Department of Agriculture and Rural Development
DOE	—	Department of the Environment
EHS	—	Environment and Heritage Service
ESA	—	Environmentally Sensitive Area
EU	—	European Union
MOSS	—	Management of Sensitive Sites
NCALO	—	Nature Conservation and Amenity Lands (Northern Ireland) Order 1985
SAC	—	Special Area of Conservation
SLA	—	Service Level Agreement
SPA	—	Special Protection Area
SSSI	—	Site of Special Scientific Interest

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Introduction

Areas of Special Scientific Interest

1. The 1985 Nature Conservation and Amenity Lands Order (NCALO), as amended in 1989, requires the Department of the Environment (DOE) to declare a particular location to be an Area of Special Scientific Interest (ASSI) if it is "of special scientific interest by reason of its flora, fauna or geological, physiographical or other features". This work is carried out by Environment and Heritage Service (EHS), an Agency within DOE.

2. EHS's Natural Heritage Directorate is responsible for selecting and designating ASSIs, and is statutorily required to consult the Council for Nature Conservation and the Countryside on its proposals[1]. Following designation, EHS may enter into management arrangements with landowners or occupiers to secure the scientific interest and promote the better management of the sites. It is also empowered to take appropriate enforcement action against owners or occupiers who fail to obtain its consent to carry out certain notifiable activities that have the potential to damage the special interests of the sites.

3. In Great Britain, similar conservation, designation and protection is undertaken under the 1981 Countryside and Wildlife Act and the 2000 Countryside and Rights of Way Act. The work is carried out by English Nature, the Countryside Council for Wales and Scottish Natural Heritage.

4. EHS expenditure on ASSIs and related sites in the financial years 1998-99 to 2001-02 is shown in the table below.

1 The Council for Nature Conservation and the Countryside was established under the Nature Conservation and Amenity Lands (Amendment) (NI) Order 1989 and is responsible for advising EHS on matters relating to nature conservation.

Figure 1: Expenditure on ASSIs and related designations 1998-99 to 2001-02

Expenditure Type	1998-99 £	1999-2000 £	2000-01 £	2001-02 £
Site Designation	844,451	639,992	554,494	676,726
Site Management	792,040	773,631	440,264	381,741
Site Monitoring and Enforcement	109,734	165,240	319,016	469,720
Land Acquisition	156,869	505,187	384,067	574,000
Other Expenses	41,570	85,191	48,994	31,274
TOTAL	**1,944,664**	**2,169,241**	**1,746,835**	**2,133,461**

Source: EHS

5. EHS is also responsible for identifying and designating sites that are of international importance, in accordance with the requirements of the 1973 Ramsar Convention on wetlands of international importance and the following EU Directives:

- the 1992 Habitats Directive requires designation and management of Special Areas of Conservation (SACs); and
- the 1979 Birds Directive requires designation and management of Special Protection Areas (SPAs).

Both Directives were transposed into Northern Ireland legislation by the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (the 'Habitats Regulations'). EHS requires sites designated under these Directives and the Ramsar Convention to be underpinned by ASSI declaration, either existing or made simultaneously with the European or Ramsar designation. Consequently, ASSI designation has important international, as well as national, significance.

6. In January 2001, the Minister for the Environment told the Northern Ireland Assembly that his Department would bring forward proposals for improving the protection and management of ASSIs in Northern Ireland. He stated that his objectives were "to secure improvements in the procedures for notifying sites; to achieve better protection for sites from deliberate operations which damage the special interests and from deliberate damage; to secure better management of designated sites by both public and private landowners; and to get better value for money from payments to landowners to protect and manage sites by requiring conservation benefits".

7. In March 2001, the Department issued a consultation paper entitled "Partners in Protection". This contained proposals to enhance the management and conservation of ASSIs and to ensure compliance with the Habitats Directive. DOE introduced a Bill ('the ASSI Bill') into the Assembly in September 2002 to reflect the results of that consultation. This was subsequently incorporated into the Environment (Northern Ireland) Order 2002.

Scope of NIAO Examination

8. Against the background described above, we examined EHS's arrangements for establishing and protecting ASSIs, under the following headings:

- Are there effective arrangements in place for identifying and designating ASSIs? (Part 1)
- Are ASSIs managed properly? (Part 2)
- Are ASSIs protected adequately from damage? (Part 3)
- Do the current organisational structures and liaison arrangements deliver an efficient and effective service? (Part 4)

Ballynahone Bog

Part 1

Are there effective arrangements in place for identifying and designating ASSIs?

How are ASSIs identified and designated?

1.1 Candidates for ASSI designation are identified through general survey work, which is used to rank potential sites. More detailed surveys are then used to evaluate and document the degree of scientific interest of individual sites. After declaration, a three-month period is allowed for those who have been notified to submit any representations or objections, and the ASSI declaration is required to be confirmed, or rescinded, within three months of the deadline for submitting these objections.

Does EHS have an effective strategy for ASSI designation?

1.2 The 1990 House of Commons Environment Select Committee report 'Environmental Issues in Northern Ireland' (HC 39 Session 1990-91) highlighted that nature conservation in Northern Ireland was many years behind Great Britain, where designation of Sites of Special Scientific Interest (SSSIs) was mostly complete. In its 1991 response to the report, the Government said that completing Northern Ireland's ASSI designation programme within ten years was "a realistic objective" and that it was providing the additional resources necessary to achieve this objective. EHS said that the additional resources were not forthcoming, despite a series of bids by EHS and its predecessors.

1.3 In October 1993, EHS's predecessor (Environment Service) issued 'Target 2001', a document setting out a formal programme for survey, designation and

protection of ASSIs, based on this expectation of additional resources. Its objective was to secure "an ASSI network comparable with that of Great Britain", and it estimated that this could amount to around eight per cent (110,000 hectares) of the total area of Northern Ireland, equivalent to roughly 400 sites, protected by ASSI declarations by March 2001. Target 2001 acknowledged that it was not possible to predict with any accuracy the number of ASSIs to be declared, as this would be determined by scientific merit, rather than by any numerical target or comparative percentage.

1.4 EHS reviewed Target 2001 progress in 1997, and informed the Minister at the time that, in the absence of sufficient resources, the designation programme would not be achieved. In the continuing absence of sufficient staff resources (see paragraph 1.10), EHS has not yet produced any revised long-term strategy for completing designation of the ASSI network, nor a time-scale within which it intends to do so. However, it has included a target number of sites to be designated in each of its annual Business Plans. These targets have been consistently achieved up to March 2002. The ASSI-related Business Plan target for 2002-03 is completion of the Foyle Special Area of Conservation in order to comply with the EU Habitats Directive (see paragraph 1.7 below). In January 2002, the Minister's response to a written Assembly question stated that EHS would review the current and proposed extent of the ASSI network, as well as the subsequent management and monitoring requirements, during 2002-03 and that this would provide a better indication of the time it would take to complete the designation programme.

What is the current status of the ASSI designation programme?

1.5 At the time of Target 2001's launch, there were 40 ASSIs, equivalent to 3.3 per cent of the land mass of Northern Ireland. By March 2001, there were 181 ASSIs, representing around six per cent. EHS told us that a further 15 sites were declared during 2001-02. If this annual designation rate is maintained, the

original planned network envisaged in Target 2001 will not be established until 2016, some 15 years after the original target completion date. EHS said that, as most of the large and complex sites (such as Strangford Lough and Lough Neagh) have already been declared, it is quite likely that this rate will be increased.

Why has EHS not achieved its designation target?

1.6 Target 2001 recognised that achievement of the required outcomes would require "a very substantial increase from the current rate of ASSI designations" and that this must be based on further survey work, to be completed well before the end of the period.

1.7 EHS told us that it was prevented from meeting its targets because the extra funding recommended by the Environment Committee in 1990 had not been provided in full. A further reason was the need to select sites qualifying for designation as EU Special Areas of Conservation (SACs), following the introduction of the Habitats Directive in 1992. EHS said that the full implications of this Directive could not be foreseen when Target 2001 was being prepared, and key staff were diverted into this area of work to meet the deadlines imposed by the European Commission.

1.8 In January 2002, EHS told us that it had identified 200 potential ASSI candidates and completed preliminary surveys on most of the geological sites, but not on the biological sites. These 200 sites can only be declared ASSIs after full surveys have been undertaken, and there is no target date for completing this work. EHS said that the selection of sites to be declared each year may be influenced by a range of factors, including scientific importance, completeness of survey data, perceived degree of threat of damage, and the number of landowners affected. EHS told us that there will, inevitably, be circumstances where a site "jumps the queue" because EHS considers that it is under greater threat than others that are possibly of marginally better quality or greater

importance. We consider that, in such circumstances, it is essential to ensure that all relevant factors are properly weighted and scored in arriving at decisions on designation priorities.

1.9 It is not possible, at present, for EHS to measure accurately its performance in carrying out designations, as none of the current ASSI databases provides information on potential sites as they are identified, or dates and stages of the survey work that precedes designation. Such information can only be obtained manually from individual case files. In addition, while we recognise that there are overall guidelines in place for staff engaged in designation work, we consider that more comprehensive, 'desk-top' instructions should be provided. In our view, such instructions would be a useful addition to training provided, and help to ensure consistent and accurate approaches to designation. They would also provide a sound framework for management review and quality assurance monitoring, whether the work is carried out by EHS staff or contracted out.

1.10 In recognition of the history of under-funding, EHS's Natural Heritage Directorate was awarded an additional £2.64 million in 2001-02 for biodiversity and nature conservation work, including ASSI tasks and the cost of recruiting an additional five new staff for ASSI-related duties. However, at March 2002, only two of these specialist posts had been filled and these were internal promotions, rather than additional staff. This delay has impacted significantly on EHS's ability to progress work on ASSIs and other Natural Heritage objectives. EHS told us that some key areas of research and survey were also postponed because of the restrictions on access caused by the outbreak of Foot and Mouth Disease. Of the 2001-02 allocation, £0.3 million was diverted to the Built Heritage Directorate of EHS and £1.8 million was surrendered, unspent, to DFP for re-allocation to other Departments.

What have been the consequences of delayed designation?

1.11 Delays in completing the ASSI designation programme have had the following impacts:

- a risk of non-compliance with EU Directives in relation to one known site (it is DOE policy that sites for designation under certain EU Directives must first be ASSIs). At worst, this could expose the UK government to EU infraction proceedings and annual fines resulting from non-compliance. In 2000, EHS estimated that these fines could be "hundreds of thousands of pounds" (see paragraph 1.12 below);
- possible, and potentially irreversible, damage to sites not yet protected by designation; and
- priority is given to designating sites that are threatened with damage or alteration, possibly at the expense of others awaiting designation and which may have greater conservation importance.

1.12 The UK government is currently the subject of infraction proceedings because the EU considers that UK Habitats Regulations do not fully implement the Habitats and Birds Directives. In this respect, NI law is further behind than that of England and Wales, where the relevant changes to primary legislation were made in the 2000 Countryside and Rights of Way Act. DOE has set a target date of the end of July 2003 for completing work to update the NI Regulations. This is dependent on amending the relevant sections of the Nature Conservation and Amenity Lands Order, and this is subject to enactment of the Environment (NI) Order 2002 (see paragraph 1.15).

1.13 Because EHS's ASSI databases do not contain any information relating to potential candidates for designation (see paragraph 1.9), it is not possible to identify the number of sites that have been damaged as a result of delays in

designation, or that have been designated at short notice because of threatened damage. We identified one peatland ASSI where there had been an extremely long delay in affording the site statutory protection, causing considerable problems when a new owner was granted planning permission to extract peat from it, as illustrated below.

Figure 2: Biological and Physiographical ASSI in County Londonderry (Ballynahone Bog)

Date	Event
1968	DOE's statutory advisory body recommended that the Department should acquire the site and manage it as a Nature Reserve. The Department did not follow this recommendation at that time.
1980	Part of the site was acquired by a commercial operator (peat company).
1985-86	Following enactment of the 1985 Nature Conservation & Amenity Lands Order (NCALO), a DOE survey of raised bogs recommended establishing a series of these as ASSIs across Northern Ireland.
April 1986	Based on the survey results, the Committee for Nature Conservation recommended that seven areas, including Ballynahone, should be declared ASSIs under NCALO and acquired outright.
April 1987	The site owner submitted a planning application for peat extraction.
June 1987	DOE's Countryside & Wildlife Branch advised Planning Service that it should refuse the application on grounds of destroying a natural habitat and physiographic feature of national importance, and confirmed the intention to designate the bog as an ASSI.
August 1988	Following a public enquiry, which determined that economic considerations outweighed those concerned with the site's conservation, the Department granted planning permission for peat extraction.
1992-94	The Habitats Directive was introduced and it was subsequently confirmed that the Bog would qualify as a candidate Special Area of Conservation (SAC).
January 1995	The bog was declared an ASSI.
May 1995	Planning permission was revoked.
April 1995	The owner submitted a compensation claim for £16.2 million plus costs.
June 1997	The case was settled out of court for £2 million plus costs: purchase of site by DOE was included in the settlement.
September 1998	DOE formally became owners of that part of the site owned by the peat company.
June 2001	The Ulster Wildlife Trust was appointed site managers as an agent of DOE.

1.14 While this case may be atypical, it illustrates clearly the potential environmental damage and cost that can result from not providing sites quickly with appropriate statutory protection, such as ASSI designation. Although the site was eventually saved from destruction, the cost of doing so was considerable and could probably have been reduced substantially, if not avoided, through designation as a Nature Reserve in 1968, or earlier designation as an ASSI, as planned by the Department in 1986, on the basis of its survey work, and as recommended by its statutory advisory body (see Figure 2 above). As well as the compensation paid, EHS and its predecessors, and Planning Service, incurred administrative costs in handling this case. These costs are not known, but are likely to be considerable. By the time the bog was designated an ASSI, parts of the site had already been damaged as a result of drainage. Affording the site earlier statutory protection may well have reduced the potential for this damage. In addition, had EHS's predecessor body consulted Planning Service sooner about the site's scientific value, it may have been possible to include reference to this in the local Area Plan for 1976-96. In our view, such a reference might have deterred potential purchasers by alerting them to the difficulties likely to arise should they seek planning permission to extract peat from the site (see paragraph 4.10), and limited the Department's exposure to compensation claims when it was eventually declared an ASSI in 1995. DOE told us that it was not the Department's practice, at that time, to identify sites of nature conservation importance in Area Plans, as survey information was so incomplete.

What action does EHS propose in order to improve designation rates?

1.15 In March 2001, DOE issued a consultation paper entitled 'Partners in Protection', which contained proposals to enhance the management and conservation of ASSIs, and laid a new ASSI Bill before the Assembly in September 2002. The Bill (now included in the Environment (NI) Order 2002) includes a number of measures to ensure more effective protection and better

management of ASSIs. It also introduces greater flexibility in the processes associated with notifying owners and occupiers. The Order is not expected to have any significant effect on the rate of designation. EHS told us, however, that completion of the survey work and recruitment of additional staff would lead to a faster rate of site designation in the future.

What action is needed to improve EHS designation rates?

1.16 In light of the ongoing delays in designating sites, we recommend that EHS should adopt the following approach:

- set an early target date for completing the survey work that is outstanding, and required as the basis for designating sites already identified as potential ASSIs, and other conservation sites, under national and international programmes;
- prioritise clearly those sites awaiting designation, both in terms of their national and international environmental/scientific importance, and the extent and cost of designation work required, including any need to buy in resources;
- draw up a more challenging timetable for completion of site designation, based on the priorities already identified;
- draw up a prioritised, costed, list of sites to be designated each year, to be used as a basis for annual resource allocation, performance measurement, and monitoring;
- establish a formal ASSI management information system, to include a database of all potential sites as they are identified, with details of survey and designation work carried out. This database would assist in the ongoing identification and prioritisation of sites to be designated and could form the basis of subsequent site management objectives and site condition monitoring;

- ensure that all staff engaged in designation work are adequately trained, and supplied with comprehensive written guidance, in order to maximise efficiency, ensure consistency of approach and facilitate management review of performance; and
- on an ongoing basis, quantify clearly the extent of the Government's exposure to EU infraction proceedings and the estimated cost of potential fines payable as a result of designation delays.

1.17 Identifying the work required would enable EHS to articulate clearly the resources and time-scale needed to fulfil NI's international obligations, and the cost of doing so. In turn, this could form the basis of the annual bid for ASSI funding. It would also assist EHS in determining the relative priorities of tasks needed to identify and manage ASSI sites. This would be of particular importance in the event of insufficient resources being available to carry out the planned workload in any year.

Lough Neagh Shore

Part 2

Are ASSIs managed properly?

Why are conservation activities necessary?

2.1 Designation of an ASSI does not, by itself, guarantee that the site's special scientific interest will be conserved over time. The impact of farming practices, in particular, can have a detrimental effect on these features, as can certain types of development. For this reason, EHS and its equivalent bodies in Great Britain are responsible for taking measures to ensure that sites are properly managed following designation. Management incentives, when required, typically take the form of payments to landowners or occupiers.

What is the current basis for site conservation management?

2.2 EHS provides each landowner/occupier of a designated ASSI with the reasons for designation and a list of activities ('notifiable operations') that must not be undertaken on the site without first submitting a written application to EHS. EHS is required to provide a decision on this consent application within three months, and failure to meet this deadline gives the landowner a legal right to undertake the notifiable operation. If EHS rejects the application, it may offer a management agreement and extend the deadline for a further six months, or notify the owner of its intention to vest the land if a management agreement is thought unlikely to be negotiated successfully. EHS seldom pursues the vesting option, partly because of cost and partly because EHS considers it undesirable to own and manage small, isolated pockets of land (see also paragraph 3.17).

2.3 We examined EHS's performance in responding to the 471 consent applications that it received during the period from 1 January 1998 to 30 September 2001. At January 2002, 32 of these applications had been withdrawn and decisions were still outstanding on a further 32, the earliest of which was received in June 1998. For the 407 applications for which decisions were issued, EHS missed the statutory three-month deadline in 217 cases (53 per cent) and took over 12 months to issue a decision in 56 of these cases (almost 14 per cent). Clearly, such lengthy delays in processing applications can expose ASSIs to the threat of damaging operations, which EHS is powerless to prevent, under the current legislation. At best, they put EHS in a weaker negotiating position if it attempts to negotiate a management agreement with the landowner/occupier.

2.4 If no management agreement is in place within the extended deadline, a landowner may legally proceed with the proposed operation without consent. In the absence of vesting by EHS, this means that a landowner could deliberately prolong negotiations, with a view to carrying out damaging activities on an ASSI.

2.5 The case example below illustrates some of the difficulties associated with putting into place the full framework for site conservation management.

Figure 3: Combined Geological/Peatland/Physiographical ASSI in Counties Tyrone and Fermanagh (Slieve Beagh)

Site Description	Peatland ASSI, of special scientific interest because of geology, physiography, peatland flora and fauna.
Date Identified as Potential ASSI	June 1992
Date Designated	November 1994
Date of Consent Application	January 1995 - application to exercise turbary (turf-cutting) and grazing rights.
Result and Date	Consent was denied in April 1995 and a Nature Reserve management agreement offered.
Deadline for Management Agreement	October 1995
Outcome and Date	A Management Agreement was completed in February 1996. The cost to EHS was a one-off payment of £285,000 (valuation per Valuation and Lands Agency).
Details of Economic Appraisal Payment Options	• first ASSI case ever subject to economic appraisal because of the large sums involved. Appraisal recommended establishing a management agreement. Nature Reserve agreement option not included in economic appraisal, although this was the route finally chosen • appraisal states owner not interested in selling land to EHS - although earlier EHS papers recorded that he would prefer to sell it • purchase by EHS would have cost £310,000. Nature Reserve agreement compensation was £285,000
Details of Subsequent Payments	• £10,000 for restoration work • £2,100 for an additional management agreement for another piece of land • £240,000 paid to owners of other parts of the ASSI.

2.6 This case illustrates a number of features that risk undermining the effort to improve management of ASSIs, as follows:

- EHS's inability to conclude the management agreement by the statutory deadline gave the owner automatic rights to proceed with a notifiable operation;

- although a conservation plan for the site was prepared in 1995, conservation objectives were only agreed within EHS in March 2001, five years after finalising the agreement; and
- despite paying such a substantial sum to the landowner, EHS only produced its first written monitoring report on the site in November 2001. EHS diary entries indicate that the site was visited several times between 1996 and 2001, but these visits did not result in written reports. Scheduled monitoring visits in 1998 and 2000 did not take place, the latter because of the Foot and Mouth Disease outbreak.

How have management agreements used in Northern Ireland differed from those used in Great Britain?

2.7 In the early 1990s, conservation agencies in Great Britain began introducing agreements with landowners/occupiers that are designed to encourage proactive site conservation and improvement. These 'positive' management agreements entail annual and, occasionally, one-off lump sum payments in return for performing specific, agreed, land management tasks over a specified time frame, usually five or six years. EHS told us that, at about the same time, it considered introducing a scheme similar to the Countryside Stewardship Scheme that operates in England but was unable to progress the matter because of a lack of staff resources to investigate and pursue.

2.8 Aside from the obvious conservation advantages of positive site management, these arrangements were instigated as a means of making better use of scarce resources because they result in significantly smaller annual payments to landowners. English Nature and Scottish Natural Heritage told us that the majority of their management agreements now follow this 'positive' model.

2.9 Until January 2000, EHS employed compensatory, or 'negative', management agreements, so called because landowners were paid compensation for not

performing notifiable operations on their land. Compensatory management agreements usually resulted in one-off, lump sum compensation payments. The amount payable was determined by the Valuation and Lands Agency, who told us that lump sum payments were considered more appropriate in Northern Ireland than in Great Britain because of the higher proportion of site occupiers who are owners, rather than tenants. An economic appraisal of conservation site management, carried out for EHS in 1998, pointed out that this type of management agreement had a potential for greater loss through damage "because all of the money has been paid out". In our view, the results of a pilot study for preliminary site integrity monitoring, carried out for EHS in 1996, suggest strongly that these agreements did not offer the desired level of protection against damaging operations, and they did not encourage or facilitate beneficial management on those sites where it was needed. More recent results, from EHS's own aerial site integrity monitoring during 2001-02, revealed several instances of damage, some of it on sites subject to such management agreements, including building/construction work, hedge removal, tree felling and peat extraction from bogs.

2.10 Since January 2000, EHS policy has been to make 'positive' management agreements that will result in smaller, annual, payments, in line with practice in Great Britain. Lump sums are to be offered only in exceptional circumstances, such as extinction of turbary (turf-cutting) rights ('positive' management activities in peatlands are not usually necessary or appropriate). To date, EHS has completed four of these positive management agreements, and has a Business Plan target to complete 20 in total by March 2003, although the scheme was not formally launched until September 2002. EHS told us that the payments mechanism for the new scheme, known as MOSS (Management of Sensitive Sites), is based on Department of Agriculture and Rural Development's Countryside Management Scheme methodology. Landowners previously in receipt of compensatory management agreement payments are now eligible to apply for annual payments, in return for carrying out specific site management activities agreed with EHS.

2.11 EHS's policy change was required by a European Commission ruling that payments relating to agricultural land are a form of state aid. This means that they must comply with EU guidelines on agri-environmental support (principally, the Rural Development Regulation, which came into effect in January 2000). EU guidelines stipulate that payments must be calculated on the basis of income foregone, and be paid annually, so most one-off payments are no longer permissible.

Are current arrangements in Northern Ireland adequate to secure value for money?

2.12 In addition to contravening prevailing EU guidance, the one-off payments in Northern Ireland (NI) often resulted in poor value for money. For example, consultants employed by EHS to review conservation site management (see paragraph 2.16 below) noted that English Nature achieved a reduction in average payments per hectare from £75 to £25 (66 per cent) through use of positive management agreements. A similar reduction in payments in NI in the period 1992-93 to 1999-2000 (when 'positive' management agreements were introduced) could have yielded savings of up to £1.57 million.

2.13 We recognise that NI cases are not always directly comparable to those in Great Britain. This is because of higher rates of land ownership (see paragraph 2.9 above) and a higher proportion of agreements in NI relating to extinction of turbary rights, where 'positive' management agreements are usually less appropriate (see paragraph 2.10 above). However, although the potential for savings is reduced in NI, considerable economies may still be possible. For example, as part of our examination, EHS re-calculated an existing lump sum payment to reflect the probable cost had it been negotiated under the positive management framework. The occupier received £10,000 in 1998 for this woodland/peat ASSI, whereas he would have received £117 annually under the 'positive' framework. We estimate that making similar payments, even over a long period of time, would cost considerably less. For example, 100 years of

such annual payments would have a present value of only £1,500. DOE said that there can be no guarantee that an owner/occupier would be prepared to enter into a management agreement under these terms.

2.14 In the same financial year in which this one-off payment was made, EHS paid £476,830 in lump sums to landowners. Of this, £257,305 was in respect of turbary rights, leaving £219,525 in other management agreements. (EHS was unable to provide a similar breakdown between turbary/non-turbary agreements for other years.)

2.15 In that year, EHS paid an average of £875 per hectare for non-turbary management agreements. Reducing NI payments to the £25 per hectare rate achieved in England would have yielded savings of up to £213,246. Just reducing the payment by the same ratio as that achieved in England (see paragraph 2.12) could have realised savings of £144,887 in 1998-99. We also estimate that such a reduction could have realised savings of up to £634,260 in the period from 1992-93 to 1999-2000.

2.16 A consultancy exercise, commissioned by EHS in 1996, derived costs of £425 per site for quality monitoring and £880 per site for integrity monitoring (see paragraph 2.12). We estimate that the £213,246 potential saving for 1998-99 identified above could have paid for both types of monitoring of all the 140 sites that were designated at the time, with a surplus of around £30,500 to fund other ASSI-related work, such as site designation. Alternatively, had quality monitoring already been carried out, it could have paid for integrity monitoring on all sites and allowed a balance of up to £90,000 to spend on other work.

2.17 In 1998, EHS commissioned consultants to undertake an economic review of conservation site management. Its objective was to identify the most cost-effective means of managing conservation sites to ensure that EHS satisfies its statutory obligations and meets the objectives of the UK's Biodiversity Action Plan. This review concluded that making annual payments under a six-year

management agreement represented best value for money in terms of delivery of programme outputs, and also scored best on delivery of non-quantifiable factors.

2.18 In light of the potential for substantial savings illustrated above, and of the ongoing shortage of resources to carry out designation and monitoring work under the lump sum regime, EHS's intention to implement positive management agreements from January 2000 onwards was clearly sensible. We are surprised that EHS did not avail sooner of this opportunity to free up scarce funds, in line with its counterparts in Great Britain, particularly in view of the long transition period needed there to allow the new arrangements to bed down and become the norm (see paragraph 4.8). In our view, the delay in introducing reform is likely to make it even more difficult to persuade farmers and other landowners/occupiers in Northern Ireland to accept the new arrangements. EHS said that a combination of the English experience and the prospects for changing the legislation, as set out in the ASSI Bill (now Environment Order) has contributed to a more positive climate among owners/occupiers for change.

What improvements are proposed by DOE and what more are necessary?

2.19 The 'Partners in Protection' consultation document and the ASSI Bill and Environment Order propose the following key changes, to improve ASSI management arrangements:

- supplying each landowner or occupier with a site management statement, outlining both the site's conservation objectives and the management that EHS wishes to see applied to it;
- removing a presumption in favour of compensation when consent to undertake a notifiable operation is withheld;

- publication of financial guidelines for management agreements;
- providing EHS with the power to refuse consent for notifiable operations if it considers that the resulting damage would be unacceptable; and
- enhancing the role of voluntary conservation organisations in managing ASSIs.

2.20 We welcome these proposed changes and consider that, if implemented, they have the potential to improve the management of individual ASSIs considerably. In our view, the following additional steps should be implemented quickly, in order to improve the standard of service to ASSI landowners and optimise use of EHS funds:

- statutory deadlines for providing decisions on notifiable operations and completing management agreements should only be breached in exceptional circumstances, with reasons fully explained and documented; and
- where it is proposed to pay large sums to landowners, particularly for lump sum agreements, economic appraisals should be carried out as a matter of course, in line with Department of Finance and Personnel guidance, and should include the option of EHS purchasing the site.

2.21 EHS told us that it is currently implementing recommendations from a recent consultants' report on the processing of consent applications. When implemented fully, and when additional staff take up post in this area, EHS expects that breaches of statutory deadlines will occur only in exceptional cases.

Lough Neagh Shore showing jetty construction

Part 3

Are ASSIs protected adequately from damage?

What type of monitoring is necessary?

3.1 An effective monitoring programme is essential in order to ensure that the key features of ASSIs are protected over time and that landowners and occupiers abide by the terms of their management agreements and the associated payments. In recognition of the importance of monitoring, conservation bodies in Great Britain monitor SSSIs through a rolling programme, using the Joint Nature Conservation Committee's[2] Common Standards Monitoring methodology as the basis for recording results, and publish annual condition reports based on their findings.

3.2 In 1998, an internal EHS document set out the minimum level of monitoring needed to satisfy "legislative, policy and audit requirements" arising from the Nature Conservation and Amenity Lands Order (NCALO) and the EU Habitats and Birds Directives. This monitoring can be divided into three categories:

- **site integrity monitoring** - checks that a site is still intact and has not been altered substantially since designation;
- **site quality monitoring** (also known as condition assessment) - detects more subtle changes, both natural and as a result of human activity; and
- **compliance monitoring** - ensures that there are no infringements, either of notifiable operations and management agreements,

2 The Joint Nature Conservation Committee is the UK government's wildlife adviser, undertaking national and international conservation work on behalf of the three country nature conservation agencies English Nature, Scottish Natural Heritage and the Countryside Council for Wales.

where these are in place, or of planning conditions, as appropriate.

3.3 The document set out specific recommendations in relation to work required under these three categories and acknowledged that extra resources would be required to deliver monitoring, unless existing resources could be diverted from designation-related work. It was intended that monitoring would be carried out by a mix of staff from contractors and from EHS Headquarters and Regional Offices. EHS told us that, in the absence of additional resources prior to Budget 2000, it was only able to carry out a limited amount of monitoring, but this period of trialing has helped to refine methodologies and to introduce efficiencies. EHS also pointed out that the need to obtain permission for access from landowners has proved to be a significant obstacle, and is one reason why EHS has resorted to using helicopters for compliance and integrity monitoring.

Is EHS monitoring of ASSIs sufficient to assess their condition?

3.4 In EHS's view, "for the declaration of ASSIs to be worthwhile, it is vital that EHS monitors the special features of the site and takes action when deterioration or damage is identified". In March 2002, EHS introduced monitoring programmes for all three monitoring categories, and this includes a baseline survey, in the case of newly designated ASSIs. Baselines surveys have not been carried out in the past for existing ASSIs, despite EHS describing the establishment of such baselines as a "high priority" in 1998. Consequently, EHS has been unable to measure its performance against the key objective of managing and protecting sites. EHS said that it had not been able to carry out full baseline surveys on a systematic basis on all ASSIs at the time of declaration, because of a lack of resources. Resources have been concentrated, instead, on ensuring compliance with the requirements relating to EU sites and on dealing with consent applications and associated management agreements. As a result, EHS does not yet have a comprehensive, up-to-date, picture of the

condition of ASSIs and is unable to produce the kind of condition reports that are available for other parts of the United Kingdom. EHS told us that a six-year rolling programme of condition assessment of sites would get under way during Summer 2002, subject to availability of resources, and its Business Plan contains a target to complete 15 per cent of assessment work by March 2003. We welcome this development as an important first step in monitoring the condition of sites over time. In our view, baseline surveys should be carried out routinely at the time of declaration, in order to ensure that subsequent monitoring provides a full and accurate assessment of any changes to sites over time.

Why is enforcement action necessary?

3.5 European Union and UK environmental policy is underpinned by the 'polluter pays' principle, enshrined in the 1990 White Paper 'This Common Inheritance'. 'Polluter pays' means that those who cause, or risk causing, environmental damage should bear the cost of preventing or repairing that damage in full.

3.6 In addition to providing restoration, enforcement action can be a deterrent to others who may be tempted to destroy or damage environmental assets. It is important, therefore, that enforcement action is commensurate with the nature of the offence, and that it is carried out as quickly as possible after the offence has taken place. The case example below illustrates the potential consequences of inadequate monitoring of designated sites and delayed, or weak, enforcement action.

Figure 4: Biological ASSI in County Antrim (Lough Neagh ASSI and Special Protection Area)

Date	Event
30 November 1992	Lough Neagh ASSI declared
17 February 1995	Management Agreement concluded between EHS and owner for an area of 5.775 hectares and £7,000 compensation paid
1 February 1996	Notification of site to EU as Special Protection Area under Birds Directive (classified on 17 February 1998)
23 June 1997	RSPB Warden reported jetty construction activity. EHS subsequently discovered construction of a harbour development including two breakwaters, a quay with moorings and boardwalk, a concrete slipway, a hardstanding area and several bunds planted with shrubs created from spoil excavated to make the harbour. A wire fence had been erected around the development and a 100-metre long pebbled roadway had been constructed to link it to the existing field entrance
2 July 1997	EHS reported construction to Planning Service as no permission had been sought in respect of works
8 July 1997	EHS Liaison Officer advised owner that the work breached ASSI regulations, requested restoration of lands and advised about possibility of court action. Owner regarded restoration of land as impossible and "will deal with court action when it materialises"
18 August 1997	EHS memorandum to Departmental Solicitors Office outlined several possible illegalities: breach of Management Agreement contract: breach of Nature Conservation & Amenity Lands Order (NCALO) regulations, breach of Planning Regulations; and breach of EU regulations
12 January 1998	Court hearing in respect of Breach of NCALO criminal action adjourned to February 1998
11 February 1998	Pre-hearing meeting - EHS agreed to adjourn the prosecution in return for owner's agreement to EHS restoration plan in respect of landscaping (leveling of ground and replanting of trees). Summons was withdrawn on 12 April 1999 as the agreed works were substantially complete
19 February 1998	EHS advised Crown Solicitor's Office that the Department wished to pursue breach of Management Agreement contract to secure removal of constructions and restoration of site
22 April 1999	EHS memorandum reported that "landscaping" restoration work was finally completed with replanting of trees. Recommended civil action to achieve full site restoration
6 July 2000	EHS decided not to pursue the matter. Planning Service was requested not to take any action on EHS's behalf.

3.7 This case raises several issues:

- EHS only became aware of the ASSI damage through the activities of a voluntary body, and not through its own monitoring. (EHS said that this illustrates the benefits of using and supporting other organisations to assist in the monitoring of designated sites);
- the time lapse between execution of the damage and its discovery meant that no criminal proceedings could be initiated in respect of the harbour, slipway or roadway. Proceedings were limited to the area landscaped around the harbour because there was evidence of very recent, and ongoing, work at the time of discovery;
- complete restoration would only have been possible through a civil action for breach of the Management Agreement
- EHS's inability to monitor the site adequately in the past not only led to a breach of ASSI provisions but, potentially, may have left the Government open to EU action for failure to protect a Special Protection Area (SPA) site. However, in this case, EHS considered that the damage would not have a significant impact on the features of European interest.
- there is nothing on EHS files to indicate why no case was brought under planning legislation; and
- EHS told us that the case was abandoned because the amount of habitat loss was very small and that it would not have a significant impact on the features of European interest. Consequently, it was not considered a high priority, given the time required to pursue it and the other pressing demands on staff time.

3.8 The short time (less than two years) between payment of the £7,000 management agreement compensation and construction of the jetty indicates that the landowner in question had little regard for the site's ASSI designation or its SPA designation under the EU Birds Directive, and little fear of enforcement action by EHS. EHS told us that this is only one of a number of such cases around Lough Neagh, and strong enforcement action on its part would have sent a clear message to other ASSI landowners that breaches of regulations would not be tolerated. In our view, this case highlights the need for a formal, structured, enforcement policy to tackle breaches of ASSI regulations.

What statutory powers of enforcement does EHS currently have?

3.9 The Nature Conservation and Amenity Lands Order (NCALO) provides EHS with the statutory authority to prosecute a person who performs a notifiable operation on an ASSI without first seeking consent from EHS, or who fails to adhere to conditions contained in a management agreement. This restricts enforcement action to the owners or occupiers of ASSIs, and EHS has no power to take action against third parties who cause damage. Legal enforcement action must be initiated within six months of the offence. However, if an owner/occupier contravenes the conditions contained in a management agreement, EHS can also pursue a civil action for breach of contract, for which there is no time limit.

3.10 Landowners who damage ASSIs may be prosecuted and fined a maximum of £5,000. This fine has not increased since NCALO came into effect in 1985, and almost certainly does not provide a meaningful deterrent to those minded to cause damage in ASSIs. The maximum fine in England for similar offences is £20,000, and this level of penalty is already available to the courts in Northern Ireland for those convicted of other environmental offences. DOE has included in its Environment Order provisions to increase fines to £20,000 for offences associated with ASSIs.

Does EHS have an adequate enforcement policy?

3.11 In 1995, the then Director of Conservation drew attention to the need for an explicit enforcement policy, and a draft policy was produced. EHS's 1996-97 Operational Plan gave a commitment to implement a formal policy by December 1996. However, at the time of our audit, EHS still did not have any enforcement policies or procedures in place, despite producing a draft policy in 1998. In response to an Internal Audit report in June 2001, EHS undertook to agree formal enforcement procedures by March 2002, but this undertaking has not yet been met. A new deadline of 31 March 2003 has been set for completing this work, some eight years after EHS completed its first draft enforcement policy.

3.12 In our view, the absence of documented and consistently applied enforcement policies and procedures, some 16 years after the implementation of NCALO, represents poor management practice. It also makes it impossible for EHS to demonstrate that it is implementing the 'polluter pays' principle. In addition, there is a risk that weak or inconsistent enforcement could undermine the whole process of ASSI designation, management and protection by conveying the wrong signals to landowners about the importance of protecting sites.

3.13 To date, EHS has decided not to pursue any cases through the courts, preferring instead to target resources on negotiating management agreements. In order to take successful enforcement action in appropriate circumstances, EHS would require adequate evidence of mismanagement or deliberate actions leading to damage or deterioration on an ASSI. In our view, EHS cannot currently take meaningful enforcement action in the absence of a proper management framework, including conservation objectives and plans for individual ASSIs, backed up by a proper inspection and monitoring programme and adequate access rights to sites. The results of the recently-begun site monitoring programme (see paragraph 3.4) will provide essential information for use in any enforcement action that may be considered necessary in future. We

consider it important to ensure that all the necessary management framework elements are in place and functioning effectively, to provide all the information that may be necessary to facilitate enforcement. Provisions for enhanced access rights to sites are included in the Environment Order.

Who is responsible for restoration work?

3.14 If a landowner or occupier is found guilty of an offence under NCALO, the court may order that the land be restored to its former condition, within a specified period. A convicted person may be fined up to £5,000 for failing to comply with such an order, plus £100 for each day during which the offence continues. The legislation also permits EHS to enter the land to carry out restoration work and reclaim its expenses from the landowner, but EHS has not carried out such work to date. There are currently no powers to compel third parties to rectify damage.

3.15 In Great Britain, the Countryside and Rights of Way Act 2000 provided powers to make third parties liable for damage to SSSIs and also to require other public bodies to fund restoration work, even if the damage was caused by activities on adjoining sites, rather than on the SSSI itself.

3.16 The potential costs of restoration work can be considerable. For instance, it cost £10 million plus annual maintenance of £250,000 to restore (with limited success) four badly damaged bog sites in Holland. Creation of new habitats to compensate for losses can be even more costly, e.g. the creation of a new wetland reserve to compensate for the Cardiff Bay barrage cost £5.7 million capital, plus continuing maintenance. In the Republic of Ireland, attempts to restore eight sites have cost £650,000 annually. While these may be extreme examples, they illustrate the importance of putting in place proper measures to minimise the risk of damage occurring in the first place.

When does EHS employ vesting to protect sites that are under threat?

3.17 It has been the policy of successive governments to aim to secure better land management through co-operation with land managers, rather than through outright purchase or removal of property rights. Although NCALO gave EHS powers to vest land, these powers are restricted to situations where a landowner has submitted an application to conduct a notifiable operation on a designated site and EHS has been unsuccessful in negotiating a management agreement to preserve the site (see also paragraph 2.2). In practice, this means that delays in negotiating management agreements can deprive EHS of the vesting option, because a site may already have been damaged so much that vesting is no longer relevant. DOE has recognised the shortcomings in current statutory provision for vesting and included measures to rectify them in the Environment Order.

What more is needed to protect ASSIs and to enforce 'polluter pays' in Northern Ireland?

3.18 The Environment Order includes powers to enable EHS to enter land for survey, monitoring and enforcement purposes. It also proposes providing landowners and occupiers with a site management statement indicating the conservation objectives of the ASSI and an outline of the management EHS wishes to see applying to it.

3.19 We welcome these new powers, which will be essential if proper monitoring is to be established and carried out effectively on an ongoing basis. In our view, it is important that monitoring results should be reported annually and made available on the EHS website, as is the case with other EHS data, such as river quality monitoring and pollution incidents statistics.

3.20 The Environment Order proposes the following enhancements to enforcement activity:

- increasing the maximum fines against owners or occupiers who cause or permit damaging operations, without consent, to levels consistent with other conservation legislation (£20,000);
- giving EHS staff automatic right of entry to land to monitor the condition of ASSIs;
- introducing powers for EHS to make management notices prescribing certain conservation management practices on ASSIs;
- creating a new offence of intentionally or recklessly damaging or disturbing the special features of a site, either by landowners/occupiers or third parties;
- make bye-laws for the protection of an ASSI; and
- more flexible powers of compulsory purchase of land and, where appropriate, the accompanying rights necessary to protect and enhance its special features.

3.21 These proposals will bring enforcement provisions in Northern Ireland more closely into line with those in Great Britain by strengthening action against those who damage ASSIs. However, we consider that these new measures will only be fully effective if they are underpinned by formal, documented, enforcement policies and procedures. In our view, this is essential in order to set out clearly for EHS staff, and the public, the types of enforcement action that will be taken in given circumstances, in line with the 'polluter pays' principle.

3.22 Policies and procedures are also important in order to ensure that the degree of enforcement action is commensurate with the seriousness of the offence, and is applied equitably and in a timely fashion. We recommend that EHS policies should be based on the general enforcement principles employed by the Conservation Agencies in Great Britain which are:

- proportionality in the application of the law and in securing compliance;
- consistency of approach;
- transparency about how the Agency operates and what those regulated may expect from it; and
- targeting of enforcement action to ensure that it is used where it can achieve a positive outcome and/or have a significant deterrent effect on others.

Eastern Mournes

Part 4

Do the current organisational structures and liaison arrangements deliver an efficient and effective service?

4.1 It is clear, from earlier sections of this report, that EHS has recognised the shortcomings that currently exist in arrangements for protecting ASSIs. In particular, the legislative changes proposed in 'Partners in Protection' and the Environment Order will, if implemented, go a considerable way towards improving matters. While it is clear that much remains to be done, the proposed changes represent moves in the right direction. This section of the report examines a number of issues that will have a bearing on EHS's ability to deliver improvements.

Are there adequate controls in place to ensure cross-compliance with other environmentally based schemes/initiatives?

4.2 The Department of Agriculture and Rural Development (DARD) is responsible for helping to conserve areas of the countryside that are highly valued for their scenic beauty, wildlife habitats and/or distinctive heritage features, through encouraging farming practices that are favourable to the environment. This work is undertaken through the operation of agri-environmental schemes, such as the Environmentally Sensitive Areas (ESA) and Countryside Management (CMS) schemes. Under these schemes, grants are payable to qualifying farmers and other landowners for undertaking specific practices, or for ceasing activities that may have a detrimental effect on the environment. DARD is also responsible for forest policy and is currently consulting on the scope and direction of that policy. DARD implements its programmes by acquiring and

managing land and trees, by regulation, and by providing forestry grants to farmers and other landowners. Much of this activity contributes to nature conservation objectives, and DARD itself owns several ASSIs.

4.3 Owing to the substantial areas of commonality between the agri-environmental, forestry and ASSI schemes, there is an obvious need for close liaison between EHS and the relevant DARD Divisions and Agencies. This is particularly important to ensure that farmers are not receiving payments under more than one scheme in pursuit of similar objectives, or where agricultural and environmental schemes have conflicting objectives. EHS told us that this liaison is routine practice in the negotiation of management agreements.

4.4 We examined a small sample of nine management agreements (all pre-dating the introduction of CMS in 2001), and found written evidence of liaison with DARD only in the four cases that related to ESAs. While this indicates that ESA liaison is operating properly, we consider that there is a need for more extensive liaison with DARD in all matters relating to ASSIs, and full records kept of such liaison. EHS told us that it maintains separate databases recording ESA/CMS consultations with DARD, and that copies of consultation papers are held on the landowner's discussion/negotiations file. In our view, the proliferation of databases holding ASSI-related information (see also paragraphs 4.12 and 4.13 below) and manual methods of information storage and retrieval make it more difficult to manage the consultation process properly and to ensure that it is always carried out.

4.5 In April 1995, Planning Service imposed a Tree Preservation Order, covering all trees on a candidate ASSI site, part of which was subsequently designated an ASSI in March 1998. In September 1995, the landowner requested consent to fell the trees, with the intention of using the land for grazing, largely in order to qualify for DARD (then DANI) extensification premium payments. DOE refused consent and the owner submitted a compensation claim. Following protracted negotiations, DOE paid the owner £730,000, plus costs, in compensation for the value of the felled timber and his inability to clear the land for grazing and, thus, increase its value.

4.6 More recently, EHS's site integrity monitoring results have shown such 'damage' as building/construction work, tree-felling and hedgerow removal, and peat extraction on ASSIs (see paragraph 3.4). DOE told us that building work may:

- have taken place before ASSI designation;
- relate to permitted development (and, therefore, not require planning permission); or
- be a result of illegal activity.

In such circumstances, there would be no Planning Service notification to EHS. In our view, the fact that this construction was previously unknown to EHS emphasises the importance of adequate survey at the time of designation and also of ensuring timely and comprehensive liaison with Planning Service, so that ASSI records contain details of existing or permitted building. We consider that it may also indicate unapproved construction, or inadequate liaison with Planning Service, and that the previously unidentified tree-felling and hedgerow removal may indicate deficiencies in liaison with DARD.

4.7 Given the importance of ensuring a joined-up approach in order to avoid situations of the sort outlined in paragraphs 4.4, 4.5 and 4.6, we recommend that EHS should put in place a Service Level Agreement (SLA) with DARD, including robust, formal, liaison procedures and monitoring arrangements, without delay. In our view, it is essential that the potential for any conflicts that may arise between the aims of agricultural, forestry and environmental schemes is eradicated quickly or, if this is not possible, that the two Departments act quickly to minimise both damage to the environment and the amount of compensation payable. We also recommend that the SLA between EHS and Planning Service, which was due for renewal in 2000, should be updated and re-implemented quickly. In our view, appropriate SLA requirements would act as a trigger for proper liaison at appropriate points in the ASSI designation and management process. In particular, we consider that proper liaison arrangements between EHS and DARD will become increasingly important as the new MOSS scheme becomes established.

4.8 Both English Nature and Scottish Natural Heritage enlisted the help of agriculture agencies in effecting the change of mindset among farmers that was necessary to persuade them to co-operate in implementing the new management agreement payment arrangements. English Nature found that a seven-year transition period was needed to completely effect the cross-over. Clearly, DARD has a very important role in educating farmers, in order to facilitate change as quickly as possible, particularly as Northern Ireland is lagging so far behind the rest of the UK in this respect. For this reason, we welcome DARD's close involvement in the development of EHS's new MOSS grant scheme. We recommend that EHS should involve DARD formally in its future work aimed at allowing the scheme to bed down and gain acceptance in the farming community.

Are there adequate liaison arrangements/checks in place between EHS and other DOE Agencies?

4.9 The case described in paragraph 4.5 illustrates the absence of a joined-up approach, at the time, between EHS and Planning Service, both Agencies within DOE. In response to the felling application, Planning Service refused consent for all trees, whereas EHS would have been content with selective felling, plus some re-planting. In EHS's view, the latter approach would have satisfied the environmental objective, while at the same time reducing the Department's compensation liability. The then Minister was "appalled" at the Department having to pay the compensation in this case and "concerned" that the decision to do so had been taken without reference to him. He subsequently issued instructions that Planning Service should liaise "from an early stage" with Valuation and Lands Agency, EHS and Forest Service (DARD) to estimate the likely financial and environmental costs of making, or declining to make, a Tree Preservation Order. EHS told us that it would not be possible for a case of this nature to occur in present circumstances because of the Environmental Impact Assessment Regulations, which came into operation in February 2002.

4.10 In the case example in Figure 2 (paragraph 1.14), there was no consultation between EHS's predecessor and Planning Service during the early/mid-1970s when the latter was preparing the Area Plan that included the site in question. As a result, the scientific importance of the site was not highlighted in the Plan. The owner claimed that this lack of information was instrumental in his decision to buy the site for peat extraction, and he referred to this in his subsequent compensation claim when the site was finally declared an ASSI and planning permission was revoked. EHS told us that it was not common practice to include such information in Area Plans at the time, but that its current practice is to notify Planning Service not only of all current ASSIs, but also of a much larger number of Sites of local nature conservation importance, at the time of Area Plan preparation.

4.11 The need for proper liaison between EHS and Planning Service is self-evident. EHS told us that there are now arrangements in place for liaison in all matters connected with ASSIs. However, we consider that there is still potential for recurrence of the kinds of problems referred to above because the absence of documented procedures increases the risk that liaison may not take place as it should, or that it may not be monitored properly. In our view, EHS should include in its SLA with Planning Service (see paragraph 4.7) a requirement to notify the latter formally of all potential candidates for ASSI designation, or other environmental site designation, as soon as they are identified, and inform it at once of any changes in sites' status. Similarly, Planning Service should be required formally to notify EHS of any planning applications or permitted development rights in relation to Special Sites or adjoining areas.

Is there adequate internal communication in place within EHS?

4.12 Much of the monitoring carried out in respect of individual sites is undertaken by local EHS staff. There is an obvious need for these staff to have up-to-date information in relation to the status of management agreements, payment of

DARD grants, consent applications, etc, relating to the landowners in their area. However, local offices have on-line access to only one of the central databases that cover different aspects of ASSI-related work, and manual files relating to individual ASSIs are held centrally in EHS headquarters. The resulting delays in obtaining information can sometimes make it difficult for them to carry out their work as quickly, accurately and effectively as necessary to provide a proper service and to monitor and protect sites.

4.13 In order to maximise the efficiency of ASSI management, we recommend that EHS should consolidate all ASSI data into one database, and provide on-line access to all staff who require it, both at headquarters and at local offices. In our view, sites should be entered onto the database as soon as they are identified as candidates for designation, and records updated at each stage of the designation and monitoring process. A related recommendation was made in December 2001, when the Department of Finance and Personnel's Business Development Service recommended that consideration be given to developing the Conservation, Designation & Protection system to facilitate all the recording needs of the process in one system. This mirrored an earlier recommendation, in 1996, by the consultants' report on Preliminary Site Integration Monitoring (see paragraph 2.16), which said that further development of the database should occur to allow overall collation of data within a centralised system.

4.14 We also recommend that consideration be given to providing Planning Service and DARD with on-line access to relevant parts of the database, in order to prevent recurrence of the problems outlined in Figure 2 and paragraph 4.5. EHS told us that, as it has established a number of databases already in relation to ASSIs, it is not currently persuaded that development of a single, comprehensive, database is amongst its most urgent priorities within the resources available to it and taking account of other pressing needs.

Are the right organisational structures in place to manage ASSIs properly?

4.15 In its report 'Control of River Pollution in Northern Ireland' (NIA 3/00), the Public Accounts Committee described the anti-pollution effort as suggesting "a worrying lack of cohesion", and recommended that current organisational structures be included in the proposed review of public administration.

4.16 In our view, management responsibilities and payment of financial assistance for prevention of damage to ASSIs currently display a similar lack of cohesion. A similar view was expressed in 1998 in the consultants' report commissioned by EHS on economic appraisal of site management (see paragraph 2.17). The report recommended that agricultural and conservation payments should be administered by a single body (probably DANI (now DARD)) "to complement the agri-environmental grant programme and to reinforce the positive environmental management message to landowners". In our view, this recommendation still merits serious consideration and evaluation, because:

- payments to landowners under the new MOSS scheme management agreements are to be made on a similar basis to those for DARD's Countryside Management Scheme, although MOSS is applicable to habitats that are not farmland and for which DARD has no responsibility, such as many coastal sites. The schemes have many common aims and DARD undertakes annual monitoring for continuing payments;
- landowners could be provided with a more joined-up and user-friendly service if one body were to administer both schemes and if monitoring were to be carried out simultaneously for both;
- in circumstances where ASSI resources, particularly staff, are scarce, it may deliver better value for money overall, if one body were to administer both schemes and make the associated payments; and

- DARD has a key role in effecting the changed mindset among farmers that will be essential to implement the MOSS management agreement framework.

EHS told us that it is doubtful whether DARD would have the same degree of influence over ASSI landowners that were not farmers.

Appendix 1

Map of Northern Ireland showing location of ASSIs

Source EHS

List of NIAO Reports

Title	NIA No.	Date Published
2001		
National Agricultural Support: Fraud	NIA29/00	9 January 2001
A Review of Pathology Laboratories in NI	NIA31/00	8 February 2001
Road Openings by Utilities	NIA35/00	22 February 2001
Water Service: Leakage Management and Water Efficiency	NIA49/00	5 April 2001
The Management of Social Security Debt Collection	NIA71/00	28 June 2001
Belfast Action Teams: Investigations into Suspected Fraud within the Former Suffolk Action Team	NIA72/00	2 July 2001
Building Maintenance in the Education and Library Boards		
Brucellosis Outbreak at the Agricultural Research Institute	NIA02/01	27 September 2001
2002		
Northern Ireland Tourist Board Accounts 2000/01	NIA45/01	26 February 2002
Travelling People: Monagh Wood Scheme		
Indicators of Educational Performance and Provision	NIA48/01	21 February 2002
NIHE: Housing the Homeless	NIA55/01	21 March 2002
Repayment of Community Regeneration Loans	NIA59/01	28 March 2002
Investing in Partnership - Government Grants to Voluntary Bodies	NIA78/01	16 May 2002
LEDU: The Export Start Scheme	NIA105/01	2 July 2002
Compensation Payments for Clinical Negligence	NIA112/01	5 July 2002
Re-Roofing of the Agricultural and Food Science Centre at Newforge	NIA24/02	17 October 2002
The Management of Substitution Cover for Teachers	NIA53/02	12 December 2002
2003		
The Sheep Annual Premium Scheme	NIA75/02	6 February 2003
The PFI Contract for Education and Library Board's New Computerised Accounting System	HC498 NIA99/02	20 March 2003

Printed in the UK by the Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office
03/03/C7

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ISBN 0-102-92429-5
9 780102 924299