



To: Wendy Bagnall, SEP

From: Loreto Guinan, Heritage Officer

Re: Submission on review of Section 40 of the Wildlife Act – Burning/Cutting Controls

Ireland has obligations under the EU Birds Directive and Wildlife Acts to ensure that birds and their habitats are adequately protected. Recent reports indicate the 28% of Ireland's breeding bird species are currently in decline. Each EU member state is obliged to report to the European Commission on the status of listed habitats and species every six years, under Article 17 of the Habitats Directive. The most recent Article 17 report concluded that 31% of Habitats are in decline. The National Biodiversity Plan 2011-2016 commits to a target of effective hedgerow and scrub management by 2016 and sets out a number of actions to achieve this aim. The County Meath Development Plan 2013-2019 recognises the contribution that hedgerows make to the county's green infrastructure and the many ecosystem services that they provide. Chapter 9 of the Meath County Development Plan 2013-2019 sets out a number of policies and objectives for the sustainable management of natural heritage and biodiversity in the county in particular the **hedgerow resources** (NH POL 13, NH POL 14, NH POL 15, NH POL 16, NH POL 17, NH POL 18, NH POL 19 and NH OBJ 5).

Hedgerows are perhaps the most characteristic feature of the Meath landscape and provide a value refuge for biodiversity in a landscape dominated by large tracts of intensive agriculture contribute positively to the landscape of Meath. In 2010 Meath County Council commissioned a tree, woodland and hedgerow survey of County Meath¹ to provide baseline ecological data on type, extent and condition, of selected trees, woodlands and hedgerows. The survey estimated that there are over 22,000 kilometres of hedgerow in the county which translates to an average length of 9.5 kilometres of hedgerow per square kilometre of land, which is more than most counties in Ireland. In addition, most Meath hedgerows are old – over 80% are shown as field boundaries on maps from the 1840s, and many are likely to be much older than that and act as a significant ecological corridor.

¹ Smith, G.F., Delaney, E., O'Hora, K., and O'Donoghue, P. (2011) *County Meath Tree, Woodland and Hedgerow Survey*. Report prepared for Meath County Council. Atkins, Dublin.

At least 36 species of trees and shrubs can be found in County Meath hedgerows. The most common shrubs appearing in hedgerows are hawthorn, elder and blackthorn. Other common hedgerow shrubs are gorse, wild privet, holly, willow, wych elm and hazel. Some hedgerows in the hilly part of north of the county are made up almost entirely of gorse. These may have been planted where the soil was too poor for good growth of hawthorn, or they may have naturally colonised earth banks. Other hedgerows by streams or wet drainage ditches had a large amount of willow growing amongst the hawthorn.

Should the closed period for cutting hedges be changed?

Nationally many farmland birds and other species that utilise hedgerows are declining and it is imperative that any proposed revision of Section 40 of the Wildlife Act should only be considered on the basis of sound scientific evidence which would clearly demonstrate that such a change would not have a significant impact on bird populations.

There is no scientific basis presented for a proposed revision to the dates of the closed period.

It is the opinion of Meath County Council that the current provisions of Section 40 of the Wildlife Act already allows for significant derogations for road safety concerns, agricultural, forestry, fisheries and construction activities. These dates are firmly established within the Local Authority work programme and are not presenting any major operational difficulties which would warrant a revision.

In addition through our County Heritage and County Biodiversity Plans we have undertaken a significant number of awareness raising activities (talks, walks, exhibitions, best practice management seminars/training events on hedgerow management for community groups, in-house training) to highlighting the value of hedgerows and promote best practice management.

It is our opinion that any revision Section 40 would be a retrograde step.

Loreto Guinan
Heritage Officer

Appendix 1

Wildlife Act 1979 and Wildlife (Amendment) Act 2000

Section 40

- (1) (a) It shall be an offence for a person to cut, grub, burn or otherwise destroy, during the period beginning on the 1st day of March and ending on the 31st day of August in any year, any vegetation growing on any land not then cultivated.
- (b) It shall be an offence for a person to cut, grub, burn or otherwise destroy any vegetation growing in any hedge or ditch during the period mentioned in paragraph (a) of this subsection.
- (2) Subsection (1) of this section shall not apply in relation to—
- (a) the destroying, in the ordinary course of agriculture or forestry, of any vegetation growing on or in any hedge or ditch;
- (b) the cutting or grubbing of isolated bushes or clumps of gorse, furze or whin or the mowing of isolated growths of fern in the ordinary course of agriculture;
- (c) the cutting, grubbing or destroying of vegetation in the course of any works being duly carried out for reasons of public health or safety by a Minister of the Government or a body established or regulated by or under a statute;
- (cc) the clearance of vegetation in the course of fisheries development works carried out by the Central Fisheries Board or a regional fisheries board in the exercise of its functions under the Fisheries Acts, 1959 to 1999;
- (d) the destroying of any noxious weed to which the Noxious Weeds Act, 1936 , applies;
- (e) the clearance of vegetation in the course of road or other construction works or in the development or preparation of sites on which any building or other structure is intended to be provided;
- (f) the removal or destruction of vegetation required by a notice served by the Minister under section 62 (1) of the Act of 1946 to be removed or destroyed;² but this subsection shall not operate to exclude from subsection (1) of this section anything done by burning
- (3) The Minister may request from the person concerned details of any works carried out under subsection (2)(c) and such details shall be furnished to the Minister by that person together with a statement of the public health or safety factors involved.
- (4) In any proceedings taken in respect of a contravention of this section consisting of the doing of any act, it shall be a good defence to prove that the doing of that act was necessary for the purpose of extinguishing or preventing the spread of a fire while it was in progress or for the purpose of saving human life or was necessary in any other emergency in respect of which that act was an appropriate measure.”

² The Forestry Acts, 1946 and 1956. Section 62.—(1) Where the Minister is satisfied that a wood is liable to be damaged by fire originating on uncultivated land adjoining such wood, by reason of the presence thereon of vegetation,—

a) the Minister may serve on the occupier (if any) of the said land a notice in writing stating that such vegetation constitutes a potential danger to the said wood and should be removed or sufficiently destroyed within thirty days after such service