

## **Confor response to Defra consultation on Conservation Covenants**

Confor is the not-for-profit organisation for sustainable forestry and wood-using businesses in the UK. We have more than 1,500 member companies representing the whole forestry and wood supply chain. Confor focuses on the strategic issues that are vital to the success and sustainable future of the sector. These include helping to build the market for wood and forest products, creating a supportive policy environment and helping members to become more competitive and successful.

### **Should conservation covenants be introduced into the law of England?**

Possibly. Covenants could be a useful tool, but must be designed with great care, and as one of a suite of tools for conservation rather than a chief or only option.

Many landowners would welcome the opportunity to develop mutually-beneficial partnerships to improve the environmental quality of their land.

### **What demand do you foresee for conservation covenants? What is the basis for your view?**

Carbon funding is likely to create the main demand initially, developing the existing models of the Woodland Carbon Code and Peatland Carbon Code. Catchment management for flood prevention is another opportunity, but it is difficult to see many opportunities in the short term to leverage private finance for conservation. However, this is a field which seems likely to grow in future.

Payments for ecosystem services such as these are the areas where there is potential for large-scale impact. Covenants which rely on voluntary donations, whether from an environmental charity to a landowner, or from landowners altruistically forgoing income in future by placing obligations on their land without gaining some other benefit, are only likely to make a marginal contribution to leaving the environment in a better state than we found it.

### **What potential do you foresee for conservation covenants to deliver lasting conservation outcomes? What is the basis for your view?**

Conservation covenants will deliver lasting conservation outcomes insofar as they contribute to the development of an integrated, circular bioeconomy. At present, we are seeing the results of a long-term separation between rural/land/nature and economic/urban/technological development. New policy mechanisms such as covenants should begin a process of reintegration, so more stakeholders representing a larger part of society and the economy have a stake in the land and its conservation.

They will not deliver lasting outcomes if they merely devalue assets or make them uncommercial by putting obligations on them without benefits or opportunities for the owners. They will merely become a new form of 'designated sites in degrading condition'.

Many of the existing elements of forest management include elements being considered for conservation covenants. One example is the rule of permanency

which obliges owners to maintain forest areas as forest, for example restocking after harvest. Another is long-term management plans, agreements between the forest owner and the regulator (Forestry Commission England) on forest management activities such as harvesting, fencing, roads, and environmental improvements, which often last for decades.

This kind of model could work well to ensure that construction developments meet higher environmental standards, such as in the 'net gain for biodiversity' scenario, but this would not be within the proposed voluntary conservation covenant model. Rather it would, as in forestry, be a 'license to operate', that is, any developer wishing to benefit from economic development on this land is obliged to meet certain long-term biodiversity requirements.

### **What use would you make of conservation covenants?**

Conservation covenants could have a key role in developing woodland management for carbon, similar to schemes such as the California carbon offset scheme. This enables woodland owners to qualify for private carbon money for every tonne of carbon sequestered by their woodland over and above a 'business as usual' baseline, encouraging owners to manage their woodland to increase its carbon sequestration. It also includes obligations to improve other aspects of the woodland such as biodiversity, invasive species removal etc. Forests entering the scheme are committed to remaining in it for 100 years after the last carbon payment.

Although developing a carbon management scheme which is viable for the small scale of woodlands in the UK poses challenges for measuring and auditing, technology for measuring the carbon content of a woodland is rapidly developing and lowering in cost.

If such a scheme could be developed, it could be transformational for woodland management in England. The majority of broadleaf woodland is unmanaged or undermanaged, and therefore underperforming for carbon, for biodiversity, for local jobs and amenity value, and as an asset for the landowner.

### **What, if any, unintended consequences might there be? What is the basis for your view?**

Covenants that impose duties on future generations, could have two unintended negative consequences:

a) detracting from our present obligations. Our land management in the next decade will be life-changing for generations to come. It is vitally urgent that we deliver actions immediately that turn around the trajectory of environmental degradation. We must transform carbon emissions to carbon sequestration, turn biodiversity decline to biodiversity gain, and deliver the raw materials (both fibre and food) to transform our linear fossil economy to a circular bioeconomy.

b) creating legal restrictions to future generations' activity which is unsuitable to future circumstances and results in environmental damage rather than protection. An example historically was the extent to which the 1685 Scottish

Entail Act was holding back land management and economic development by 1800. This resulted in huge amounts of time and money was wasted extricating land from these legal restrictions imposed by past generations.

While covenants involving payments for ecosystem services have the biggest potential, they will need to be carefully regulated to avoid enabling environmentally-damaging companies to buy off criticism rather than being obliged to develop more environmentally-friendly practices. For example, if a cement company were to fund native woodland restoration next to a timber company producing softwood, the public will judge the two woodlands as if they were equivalent, rather than seeing the native woodland as the cover for a damaging industry behind the scenes and the conifer forest as the site of industrial production itself. The ways in which companies can fund covenants and benefit from their publicity should be carefully regulated.

Where conservation covenants are held by environmental charities, the environmental charity is effectively acting as a conduit for funds from donors to activities. There must be transparency as to where funds are sourced. This is less problematic where donations are from members of the public for activities delivered by the scheme. However, environmental charities receive significant funding from the public sector, and it would not be cost effective to channel this through conservation covenants when the outcome could be delivered far more simply by, for example, a woodland management grant scheme administered by the Forestry Commission. Environmental charities also receive significant donations from industry, and safeguards should be in place to ensure that this does not result in 'back door greenwash' as described above.

### **Should for-profit bodies be able to hold conservation covenants?**

Yes; this will be vital for payments for ecosystem services such as carbon payments or flood prevention, which might be delivered by accredited carbon trading companies or insurance companies, for example.

### **Should there be additional mechanisms introduced for for-profit bodies which provide assurances that the covenants they hold are delivering conservation outcomes for the public good? If so, what mechanisms would you suggest?**

No, auditing and reporting standards should be appropriate to the project, based on clearly measurable outcomes (eg. tonnes of carbon, bird index), and the same for both for-profit and not-for-profit organisations. A system where one type of organisation is regarded as 'trusted' and the other 'untrusted' risks undermining trust in both the system and in the 'trusted' organisations.

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