

Legal challenge to Scottish Government's beaver killing policy can proceed says Scottish Court of Session

Friday 26 February, 2021

Scotland's supreme civil court has given Trees for Life permission to challenge the Scottish Government's beaver killing policy through a judicial review.

The rewilding charity says the Government's nature agency NatureScot is breaking the law by failing to make the killing of endangered wild beavers a last resort when they need managing.

In December, Trees for Life applied to the Court of Session for a judicial review. Trees for Life's recent public crowdfunder to cover the legal costs raised over £60,000.

The case aims to ensure a safer future for beavers, which can be key allies in tackling the nature and climate crises because their dams create nature-rich and flood-reducing wetlands. Trees for Life also says any changes to management need to be practical and effective in protecting farmers' interests.

In a ruling announced today, the Court found NatureScot's objections to be unfounded and that the case can proceed immediately to a formal judicial review, which the Court will hear later this year.

Steve Micklewright, Trees for Life's Chief Executive, said: "We're grateful to the court for granting permission for our judicial review to be heard, which we hope will lead to a more nature-friendly, climate-friendly and farmer-friendly approach to this endangered species in Scotland."

A judicial review – a court review of official decision-makers' decisions and actions to ensure they are lawful – can only proceed when there is recognised legal ground and if the applicant has the legal right, known as 'standing', to bring a challenge.

Lawyer Adam Eagle, Chief Executive Officer of legal specialist rewilding charity The Lifescope Project, which is spearheading the litigation with Trees for Life, said: "In its decision the Court has found that Trees for Life has the legal right to challenge NatureScot on this important issue, despite the agency's attempt to avoid the issues being fully aired at a substantive trial.

"This step forward also shows that we have a real prospect of succeeding in this legal challenge, which is now scheduled for a final hearing in May this year."

In legal arguments, Trees for Life's lead Counsel, Aidan O'Neill QC, explained the importance of this case for the protection of the natural world and successfully argued that Trees for Life's case has a real prospect of success at the final substantive hearing.

Since the Government declared beavers to be legally protected in 2019, NatureScot has issued dozens of killing licences when beavers have local impacts on farmland – even though laws on protected species require management to have the least possible impact on their conservation.

A judicial review ruling that lethal control should only be a genuine last resort could allow conservationists and others to identify, with proper community engagement, suitable sites across Scotland to which beavers can be moved and be welcome – boosting biodiversity, creating wildlife tourism opportunities and preventing damage to farmland elsewhere.

Currently the Scottish Government is blocking such relocations, even though NatureScot has identified over 100,000 hectares of suitable habitat. This approach is limiting options for Tayside farmers whose crops are damaged by beavers, often putting them in the position of having to shoot the popular animals.

Trees for Life is dedicated to rewilding the Scottish Highlands. See treesforlife.org.uk.

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