

# Nature restoration is a risky business: the government must tread carefully

	Page
• Introduction	1
• Academic background – does nature recovery work?	3
• Key areas for concern	
1. Uncertainty & lack of evidence	4
2. Bye, bye, Mitigation Hierarchy	5
3. Sayonara, species surveys	5
4. District level licensing	6
5. Law changes not necessary	7
6. Financing	8
7. Planning system capacity	9
• Welcomed proposals	10
• Conclusion	11
• About the Community Planning Alliance	12
• Appendix A Letter to CIEEM	13
• Appendix B Editorial in Habitats Regulations Assessment Journal	15

---

## Introduction

This paper is a whistlestop review of what the experts have been saying about the government’s planning reform working paper, ‘Nature and Development’<sup>1</sup>. The following elements of this paper are of particular concern to us:

1. the assertion that nature is a blocker that prevents development, not something that supports our very existence.
2. a ‘pay to plunder’ proposal that appears to allow developers to gain consent and make a payment to a single, central, Nature Restoration Fund, avoiding many of the previous checks and balances. ‘Delivery Plans’ would be the mechanism to shift from project-specific assessments to a broader, strategic approach, supposedly to enhance development efficiency and environmental outcomes.
3. the risk that the steps of the mitigation hierarchy will be missed out, with a leap straight to compensatory measures instead of avoidance of harm.
4. the removal of the requirement to carry out site specific species surveys.
5. The lack of an evidence-based approach to these proposals.

We felt it was important to understand what the experts are saying.

---

<sup>1</sup> [Planning Reform Working Paper: Development and Nature Recovery](#)

It is clear that they are very worried. In fact, over 90 ecologists signed a letter (Appendix A) to the CIEEM which included concerns about district-level licensing and protected species mitigation; impact on Habitats and Species Regulations; the role of Local Nature Recovery Strategies.

Something we have been particularly concerned about is the government's extremely unhelpful rhetoric. Wildlife & Countryside Link (Link)<sup>2</sup> draws attention to this, saying that, "continued rhetoric from parts of Government about nature being a 'blocker to development' is inaccurate and unhelpful and undermines constructive engagement on the proposals. Changing well-established systems for the betterment of nature can only be done with a collaborative and collegial approach."

***"Nature degradation could cause a 12% loss to UK GDP"***

Green Finance Institute

Likewise, the Chartered Institute of Ecology and Environmental Management (CIEEM)<sup>3</sup> reminds us that, "a healthy and prosperous society flows from the existence of a resilient and fully-functioning natural world, not the other way around."

The Bat Conservation Trust<sup>4</sup> is particularly concerned, saying, "This approach will break the chain of responsibility between developers and development harms and would hasten nature's decline. The approach is incompatible with Target 14 of the Global Biodiversity Framework to mainstream biodiversity within decision-making. It would disincentivise developers from taking a nature-friendly approach on-site." We think that there is a risk that developers will manipulate the system to obtaining consent for inappropriate projects in the wrong place.

Our own submission<sup>5</sup> said that the starting point should not be that nature is in the way of development. Nature is not only essential for our existence, but brings many benefits, as set out in the Dasgupta Review. In fact, the Green Finance Institute<sup>6</sup> found that damage to the natural environment is slowing the UK economy. This could lead to an estimated 12% reduction to GDP in the years ahead – larger than the hit from the global financial crisis or Covid-19. We need a healthy and resilient natural environment, for our own wellbeing.

***"a healthy and prosperous society flows from the existence of a resilient and fully-functioning natural world, not the other way around."***

Chartered Institute of Ecology and Environmental Management

---

<sup>2</sup> [Link response Nature Restoration Fund working paper Feb2025.pdf](#) supported by: Amphibian and Reptile Conservation Buglife Bumblebee Conservation Trust Campaign for National Parks Chartered Institute of Ecology and Environmental Management (CIEEM) CPRE, The countryside charity Freshwater Habitats Trust Friends of the Earth Institute of Fisheries Management National Trust National Forum for Biological Recording People's Trust for Endangered Species Plantlife Rivers Trust RSPB Seal Research Trust The Wildlife Trusts Woodland Trust

<sup>3</sup> [CIEEM responds to Government's Planning Reform Working Paper on Development and Nature Recovery in England | CIEEM](#)

<sup>4</sup> [250121-BCT-Response-to-Planning-Reform-Development-and-Nature-Recovery-Working-Paper\\_2025-01-21-171313\\_ihov.pdf](#)

<sup>5</sup> [241220\\_cpa\\_response\\_to\\_working\\_paper\\_nature\\_recovery\\_dec24.pdf](#)

<sup>6</sup> [Assessing the Materiality of Nature-Related Financial Risks for the UK](#)

## Academic background – do nature recovery funds work?

Sophus zu Ermgassen, an ecological economist and Nature Finance Lead at the Oxford University Nature-positive Hub (who we have been fortunate to have talking at a Community Planning Alliance webinar “Biodiversity net gain: problems and solutions”<sup>7</sup> in the past), has commented on LinkedIn about the nature recovery proposals. His view is that there is nowhere near enough information yet to know if it is a great or terrible idea.

He notes when developer fee-type approaches are introduced, the default does tend to shift from avoidance to compensation<sup>8</sup>. This is one of our key concerns. Zu Ermgassen points out that there is little evidence that species measures work, citing a paper he worked on which found that of 65 common mitigation measures, there is only evidence that 13 of them actually protect wildlife<sup>9</sup>.

Zu Ermgassen believes that the biggest problem with these approaches in the past has been the ability to spend the money, often leaving the regulator with a large pot to spend on strategic conservation but nothing to spend it on. That then results in losses that go uncompensated. A case study is Queensland<sup>10</sup>.

Finally, another major risk is that governments mix public spending on conservation with compensation funds derived from specific projects. Zu Ermgassen advises that we should learn from the past and ensure that the two sets of spending are accounted for separately. This avoids ‘cost-shifting’, where a government cuts public spending on nature recovery because of private sector compensatory funding. Zu Ermgassen notes that this problem is widely recognised in the academic literature, with a particularly bad example in India’s forest compensation system. Here, several billion dollars were raised for forest compensation, which were then absorbed into general environmental spending such that those losses then went uncompensated<sup>11</sup>.

*“there is nowhere near enough information yet to know if it is a great or terrible idea”*

Sophus zu Ermgassen



---

<sup>7</sup> [Biodiversity Net Gain: problems & solutions](#)

<sup>8</sup> [Where is the avoidance in the implementation of wetland law and policy? | Wetlands Ecology and Management](#)

<sup>9</sup> [Evidence shortfalls in the recommendations and guidance underpinning ecological mitigation for infrastructure developments - Hunter - 2021 - Ecological Solutions and Evidence - Wiley Online Library](#)

<sup>10</sup> [The Society for Conservation Biology](#)

<sup>11</sup> [Cost shifting and other perverse incentives in biodiversity offsetting in India](#)

***“Killing protected species is generally counterproductive to achieving Favourable Conservation Status and supporting nature recovery”***

Bat Conservation Trust

## Risky business

### 1. Uncertainty and lack of evidence

A common theme was the lack of evidence to substantiate the proposed changes and the uncertainty in the proposals, which is more likely to slow up the system.

The CIEEM believes that there is no evidence that the existing environmental protection regimes are the main barrier to development as claimed, saying, “The Working Paper makes a sweeping critique of the existing development planning system and regulatory framework for environmental protections without demonstrating that any objective, evidence-led appraisal has been undertaken to inform the working paper.”

Link would be concerned at this early stage to extend the strategic mitigation approach beyond nutrients and potentially water and landscape-scale protected sites. Further expansion would need to be explored in detail on a case-by-case basis, with robust evidence, particularly around protected species.

Link also points out that with the uncertainty around timings it is quite possible that a developer payment could be made at the start of a project even if no credits were available, raising the risk of damage being inflicted before mitigation and compensation is applied.

***“Save for a few initiatives, there has been little practical effort to address the underlying structural issues, such as local planning authority capacity, or production of guidance.”***

Amphibian and Reptile Conservation

The Amphibian and Reptile Conservation (ARC) points out<sup>12</sup> that these proposals are a continuation of a pattern by governments to call for reform to planning and species legislation, citing nature as a blocker to growth. However, “Save for a few initiatives, there has been little practical effort to address the underlying structural issues, such as local planning authority capacity, or production of guidance.” They also note a tendency for new initiatives to “crowd out” existing ones, such as with great crested newt District Level Licensing which has led to Natural England has side-lining other important regulatory issues for newts.

Professor David Hill CBE, founder of the Environment Bank, said in his submission<sup>13</sup> that the proposals are confusing, vague and contradictory, particularly in its references to biodiversity net gain, which already sees habitat banks supporting nature recovery without government intervention. He believes Government could even face legal challenge from landowners with oven-ready biodiversity net gain sites aligned with local development. He says, “This paper will do nothing to

---

<sup>12</sup> [ARC response to Government planning reforms in England | Amphibian and Reptile Conservation](#)

<sup>13</sup> [https://www.linkedin.com/posts/david-hill-cbe-b147826\\_comments-on-the-planning-reform-working-paper-activity-7287824180270514176-vnXj?utm\\_source=share&utm\\_medium=member\\_desktop&rcm=ACoAADEFNkBSHfJLHnm6kxqRLkmz4T94swuIjU](https://www.linkedin.com/posts/david-hill-cbe-b147826_comments-on-the-planning-reform-working-paper-activity-7287824180270514176-vnXj?utm_source=share&utm_medium=member_desktop&rcm=ACoAADEFNkBSHfJLHnm6kxqRLkmz4T94swuIjU)

enhance nature recovery and could lead to perverse outcomes. The opportunities for nature recovery in the planning system have never been better thanks to the Biodiversity Net Gain (BNG) mandate, approaching its first year of implementation.”

*“This paper will do nothing to enhance nature recovery and could lead to perverse outcomes.”*

Professor David Hill CBE

## 2. Bye, bye, Mitigation Hierarchy

As Jack Potter, Head of Biodiversity Net Gain and Nutrient Neutrality at Wild Capital UK put it, on LinkedIn<sup>14</sup>, “There goes the mitigation hierarchy”, adding, “The government has proposed a levy system which removes the need for developers to even assess their impacts.”

For the CIEEM: “the new approach seems to dispense with the well-established principle of the Mitigation Hierarchy.” They remind us that (our emphasis):

**“The Mitigation Hierarchy exists to protect our most valuable ecological assets and irreplaceable habitats (through the avoidance principle).**

Payment elsewhere through a Nature Restoration Fund is not sufficient to compensate for their losses. Retention of sites is often cheaper and aligns with the UK’s net zero ambitions by retaining carbon in the existing ecosystem.

The Mitigation Hierarchy furthermore encourages developers to avoid significant impacts through a robust options-appraisal stage and then through good site design on the preferred solution. Whilst we can anticipate that there may be instances where it is immediately apparent that impact avoidance and mitigation options are not feasible and compensation must therefore be relied upon as a last resort, this does not mean that this assumption should not first be checked and confirmed.”

*“There goes the mitigation hierarchy”*

Jack Potter, Head of Biodiversity Net Gain and Nutrient Neutrality at Wild Capital UK

## 3. Sayonara, species surveys

Likewise, out with the bathwater: the need for species surveys.

The CIEEM is very clear that the requirement for independent ecological assessments and site based, project-specific, ecological assessments must remain mandatory to ensure a proper understanding of the impact on the natural environment. They cannot be replaced by Strategic Delivery Plans.

Link is also very concerned about the loss of site-specific survey, which reduces their confidence in the ability of Delivery Plans to secure good outcomes for nature. Link notes:

---

<sup>14</sup> [https://www.linkedin.com/posts/jack-potter-follow-me\\_planning-reform-working-paper-nature-recovery-activity-7296053064631808000-ZIU0?utm\\_source=share&utm\\_medium=member\\_desktop&rcm=ACoAADEFNkBSHfJLHnm6kxqRLkmz4T94swuljU](https://www.linkedin.com/posts/jack-potter-follow-me_planning-reform-working-paper-nature-recovery-activity-7296053064631808000-ZIU0?utm_source=share&utm_medium=member_desktop&rcm=ACoAADEFNkBSHfJLHnm6kxqRLkmz4T94swuljU)

“Without survey information, nature restoration attempts can become an exercise in shooting into the dark. Nature conservation takes place field by field, pond by pond, wood by wood. What happens in detail on the ground is important, and surveys map out that detail.

Properly conducted site-specific surveys are needed to safeguard nature and help to reduce the kind of delays and costs the working paper is concerned about. Surveys do this by providing data at an early stage about where important and vulnerable habitats can be found and where development is appropriate, and informing the best options for mitigation, compensation and enhancement measures within a development.

Removal of site-specific survey work will reduce the early data inputs needed for good outcomes and a smooth development timeline risks damage being done including to particularly sensitive habitats.”

***“Without survey information, nature restoration attempts can become an exercise in shooting into the dark”***

Wildlife & Countryside Link

Amphibian & Reptile Conservation gives us specific examples of how different species have different needs:

“The development of Species Conservation Strategy pilot projects for dormice, water voles and widespread reptile species has further highlighted the different needs of different species; and in particular demonstrated the greater difficulties in surveying and in predicting the likely occurrence of the species compared to great crested newts. For other species, or groups of species such as the bats, such approaches are even harder to apply. To this end, we advocate that site-specific surveys will be needed and that Strategic Delivery Plans should not replace project level assessments.”

And Robert Oates, CEO of Arbtech Consulting Ltd<sup>15</sup>, makes the sensible point that, “If ecologists are required to visit the sites in any event and sometimes visit sites at a time of year to assess an ecological baseline to ascertain the number of biodiversity units affected, they might as well carry out Preliminary Ecological Assessments for protected species while they are there. The cost and impact on the timing of any application would be negligible but it would create certainty for developers (and provide data to inform the development of policy over time).”

#### **4. District Level licensing**

It seems, that without any evidence, the government believes that the success of the District Level Licensing programme for great crested newts will apply to all other species. That’s of grave concern, not least to the Bat Protection Society, which does not beat around the bush, saying:

“We note the proposed approach aligns with Natural England’s District Level Licensing (DLL) model that permits killing Great Crested Newts and destruction of their resting places onsite. Killing protected species is generally counterproductive to achieving Favourable Conservation Status and supporting nature recovery.

---

<sup>15</sup> [https://www.linkedin.com/posts/robortoatesdotcom\\_robort-oates-arbtech-biodiversity-activity-7296974838416457728-EsQG?utm\\_source=share&utm\\_medium=member\\_desktop&rcm=ACoAADEFNkBSHfJLHnm6kxqRLkmz4T94swuljU](https://www.linkedin.com/posts/robortoatesdotcom_robort-oates-arbtech-biodiversity-activity-7296974838416457728-EsQG?utm_source=share&utm_medium=member_desktop&rcm=ACoAADEFNkBSHfJLHnm6kxqRLkmz4T94swuljU)

For bat species specifically, killing them or destroying their roosts is entirely incompatible with these aims. Not requiring site surveys and blanket permitting of roost destruction could wipe out local bat populations.

On-site surveys are necessary to determine the potential for negative impacts on protected species. The argument that site surveys should be supplanted because not all surveys find potential impacts is a circular one; without surveys, it is impossible to determine impacts.

Roosts can support hundreds of individuals and multiple species; unchecked destruction would have severe impacts. Natural England's standing advice for bats suggests that planning conditions relating to timing of development, methods of working or retention of roosts, can be applied to avoid harm before it occurs. The proposed approach would inhibit local planning authorities' ability to impose local conditions if a Delivery Plan were in place."

Similarly, the CIEEM remarks that the success of District-Level Licensing for great crested newts does not guarantee similar outcomes for other species or groups. Particular issues will arise for species that are heavily reliant on particular sites, and these would not be picked up in the absence of site-based survey and assessment. This could potentially lead to local extinctions)."

***"...could potentially lead to local extinctions"***

CIEEM

Robert Oates agrees, saying: "The approach outlines in the Working Paper would not work well for specific species protections such as bats and barn owls where some form of site specific Preliminary Environmental Assessment (PEA) will still be required and where a phase II assessment will subsequently be required in some cases. A failure to recognise these limitations and the need to maintain strict protections for some species would lead to severe impacts on vulnerable species and compromise the UK's international obligations made through longstanding agreements such as the Bern Convention and the Convention on Biodiversity (CBD)."

An evidence-based approach is needed and is lacking.

***District licensing "would be wholly inappropriate for certain other reptiles such as sand lizards or the smooth snake. In addition, it would not be suitable for bats and barn owls due to the nature of these species and their attachment to specific sites rather than general habitats"***

Robert Oates, CEO of Arbtech Consulting Ltd

## **5. Changes to existing laws not necessary**

It is not at all clear that legal changes are needed. The CIEEM points out that the existing legislation already allows for strategic flexibility. The CIEEM notes that, "to safeguard the environment while supporting growth, the core principles of the Habitats Regulations, Wildlife & Countryside Act, and other key legislation must be upheld in any new laws" and the mitigation hierarchy must be retained.

Instead of new legislation, it recommends that government should fully deliver the Section 40 duty of the Natural Environment and Rural Communities Act 2006 (NERC Act) as amended by the



Environment Act 2021, which extended the biodiversity duty on public authorities to include the enhancement of biodiversity alongside conservation.

Likewise, Link says that if legal changes really are needed, they should be kept to a strict minimum:

“After decades of application, the Habitat Regulations and associated case law comprise a legal framework important for protecting nature. If too many legal threads are removed, the whole tapestry could unravel, with cascading effects and unintended consequences that will be difficult to remedy. Any legal changes must be carefully targeted to meet specific objectives to enable strategic approaches.”

***“If too many legal threads are removed, the whole tapestry could unravel, with cascading effects and unintended consequences that will be difficult to remedy.”***

Link

When it comes to the proposed Environmental Outcome Reports, the jury is out.

The CIEEM says they will only be effective if they are properly informed by environmental and ecological data and robust assessments. There is a risk that they ‘lock in’ poor decisions earlier on in the planning process which could be dangerous if the ability of project-level assessments to identify and address these impacts has also been weakened.

It notes that a key principle that should be followed is that “if more decisions are to be ‘front loaded’ in the planning process, then the collection and analysis of ecological information must also be frontloaded, so that those decisions are well informed and effective.”

Link believes that while theoretically a more outcomes-focused approach to environmental assessment sounds positive, “undertaking reforms to a fit-for-purpose and well-understood regime of environmental assessment and associated case law will involve a long transition period, create uncertainty, and potentially cause delays for those involved in environmental assessment.”

Nor will it necessarily solve the underlying implementation issues. Link would therefore prefer to see action taken to improve the existing environmental assessment regime.

***“To safeguard the environment while supporting growth, the core principles of the Habitats Regulations, Wildlife & Countryside Act, and other key legislation must be upheld in any new laws.”***

CIEEM

## **6. Financial**

It appears that the proposals in the working paper are an attempt to shift the financial burden of meeting environmental obligations away from government and wholly onto the private sector. David Tyldesley and Caroline Chapman of the Habitats Regulation Assessment Journal (see Appendix B), say:

“the proposals are essentially a way for the Government to shift some of the cost of the obligations of Article 6.1 (site conservation management and restoration measures) and 6.2 (preventative measures) as well as the established project based obligations of 6.3 (mitigation



measures) and 6.4 (compensatory measures) wholly onto the shoulders of housing and infrastructure development, in Delivery Plan areas that may be established because of development impacts on European sites whose conservation objectives are affected by these activities.”

Tyldesley and Chapman point out that the Thames Basin Heaths was probably the first example in the UK, over 15 years ago, of a strategic delivery plan funded by development contributions. Many have followed since. But unlike the new proposals, these “have been delivered through existing procedures and mechanisms by the competent authorities themselves (local planning authorities) leading other stakeholders, on the initiative of the statutory nature conservation body by and through local government”. In fact, it was accepted at the time that a planning obligation-led system of strategic mitigation could not fund anything other than the mitigation of the development it was facilitating.

***“...the proposals are essentially a way for the Government to shift some of the cost of the obligations ...wholly onto the shoulders of housing and infrastructure development.”***

David Tyldesley and Caroline Chapman of the Habitats Regulation Assessment Journal

The issue of who will receive the money is a thorny one. The working paper (paragraph 13) says: “Moving more responsibility for planning and implementing these strategic actions onto the state, delivered through organisations with the right expertise’. David Hill says, “This sounds like handouts to favoured organisations. It is critical for nature engagement and delivery at scale, that the private sector and private landowners are able to participate in nature recovery.” and he notes that his might cause problems because “rightly or wrongly, some of the NGO’s for example, are unfortunately not trusted by landowners and farmers.” Hill also believes that the financial payments are simply a development tax that will bear no relationship to the site-specific or strategic/regional impact.

***“This sounds like handouts to favoured organisations.”***

Professor David Hill CBE

Whatever happens, Greenshank Environmental<sup>16</sup> points out that it is “critical that the Government makes it clear, with significant lead time, what strategic prioritisation will underpin a Delivery Plan. This will give organisations time to gear up.”

## **7. Planning system capacity**

Many of those who responded to the working paper note that it is not bats and newts that slow down development, it is the lack of capacity in the local planning authorities and Natural England which cause delays. Link notes that already local planning authorities and statutory consultees like Natural England and the Environment Agency are currently under-resourced and this negatively impacts their ability to carry out their planning functions

Robert Oates submitted a supplementary paper<sup>17</sup> which sets out suggestions for how to improve this situation, including accreditation for private sector ecologists which would help to remove blockages.

---

<sup>16</sup> [Response to Planning Reform Working Paper: Development and Nature Recovery - Eco Lite](#)

<sup>17</sup> [https://www.linkedin.com/posts/robertoatesdotcom\\_supplementary-response-development-and-nature-activity-7298807243343384577-](https://www.linkedin.com/posts/robertoatesdotcom_supplementary-response-development-and-nature-activity-7298807243343384577-)

## Welcomed proposals

There are some positives seen by Link:

- A commitment from government in some instances for upfront funding to a delivery body. That would be necessary to start work straight away (although it does appear that the money will be recouped from developers later). Link urges that the 2025 Comprehensive Spending Review should include pump-prime funding to deliver the first Delivery Bodies (for water and landscape sites).
- That wider development standards could be set in areas covered by strategic approaches to contribute to nature recovery efforts. For example, in catchments affected by nutrient pollution or lack of water availability it would be advisable to set strict standards for water consumption; stronger standards for developments to incorporate appropriately designed and located wildlife habitats would be complementary, such as mandatory sustainable urban drainage systems (SuDS).
- That Delivery Bodies could be given land acquisition powers, including compulsory purchase. These powers could enable Delivery Bodies to make interventions that grow and connect important spaces for nature, delivering the ‘more, bigger, better and joined’ natural habitats highlighted by the Lawton Review as essential to nature’s recovery.

From the developer’s side of the fence, there is a warm welcome for the proposals from Savills<sup>18</sup>, which says, “In conclusion, we support the principles underpinning the Planning Reform Working Paper and the Government’s commitment to achieving a balanced outcome that delivers both economic growth and environmental recovery. With thoughtful implementation, transparent processes, and strong collaboration among stakeholders, the proposed reforms have the potential to unlock housing delivery while securing meaningful gains for the natural environment.”

***“With thoughtful implementation, transparent processes, and strong collaboration among stakeholders, the proposed reforms have the potential to unlock housing delivery while securing meaningful gains for the natural environment.”***

Savills



---

t9Dh?utm\_source=share&utm\_medium=member\_desktop&rcm=ACoAADEFNkBShfJLHnm6kxqRLkmz4T94swuljU

<sup>18</sup> [Planning-Reform-Response-Jan-25.pdf](#)

## Conclusion

The overall sentiment across submissions is that while planning reform can be beneficial, the current proposals risk undermining biodiversity protection and creating more problems than they solve. The focus should be on improving enforcement, strengthening ecological expertise within planning authorities, and ensuring that nature recovery is a genuine priority, rather than an afterthought to development.

The working paper lacks evidence-based justification for its claims that environmental protections hinder development. There is widespread concern that the proposals could undermine existing environmental regulations, particularly the Habitats Regulations. The proposed Nature Restoration Fund is seen as vague, with uncertainty about its scale, purpose, and financial sustainability. Species surveys must be retained, and any move to strategic licencing for species beyond great crested newts must be fully evidenced.

**We agree with calls by the CIEEM for a pause by Government to reconsider and amend its proposed approach,** “in ongoing consultation with key bodies such as CIEEM who have a wealth of professional expertise to draw upon”.

It is essential that any approach recognises that nature is not a barrier to development and is underpinned by robust evidence, adherence to established best practices (e.g. mitigation hierarchy, polluter pays and correction at source) and long-term protections for nature. The proposals put forward in the working paper pose far too great a risk to nature. Government should listen to the experts in the field who have submitted evidence to them.

To sum up, we draw on the words of Link, “The starting point for any reform should be that changes will deliver demonstrable improvements to the natural environment, contributing to nature-recovery, meeting Environment Act targets – improvements that could also create environmental “headroom” away from legal thresholds. A thriving natural world constitutes green infrastructure which underpins our economy and wider society. The delivery of this green infrastructure, essential for economic resilience, public health and net zero should be given weight alongside the housing infrastructure the working paper has been drafted to help deliver.”

Polling, and considerable public support for the proposed Climate and Nature Bill, demonstrate that the public wants government to do more to protect the environment, not put nature at greater risk.

## About the Community Planning Alliance

The [Community Planning Alliance](#) was founded in 2021 to support grassroots campaign groups operating in the planning system. Our map lists over 600 campaigns, all over the UK.

We lobby for:

- better community participation in planning
- greater environmental protections
- the right houses and infrastructure in the right places.

Our [Homes for Everyone](#) approach provides 3 million homes without destroying nature's habitats and the report has been sent by 11,000 people to their MP.

Our Team Bat Team Newt campaign seeks to raise the profile of nature in the Planning & Infrastructure Bill. We await approval of our petition "Protect and value nature in the Planning & Infrastructure Bill" by the Government. Click here to [buy t-shirts, caps & badges](#).

We are also campaigning for a land use framework that protects ecosystems, prevents loss of best farmland, prepares for climate change. This means reusing & repurposing developed land whenever possible e.g the Homes for Everyone approach to prioritising empty homes, disused commercial properties and brownfield; a preference for new active and public transport instead of new roads; solar on rooftops and car parks instead of on farmland, and a great grid upgrade that upgrades what we have before building new transmission infrastructure.

Contact Rosie Pearson [communityplanningalliance@mail.com](mailto:communityplanningalliance@mail.com)



### How to solve the housing crisis for people, nature and the climate

- 1.5 million+ derelict homes renovated.
- 1 million + unbuilt homes with planning permission, built.
- 1.2 million homes developed on brownfield sites, first.
- 165,000 empty commercial properties repurposed.
- 26 million empty bedrooms incentivised for rental.
- Millions of homes left undisturbed for nature.
- Country's entire carbon budget not used up.

**The answer is black & white.  
Don't make the Green Belt a grey area.**

"Nature underpins everything - the economy, food, health and society - but we stand at a moment in history when nature needs us to defend it."  
Steve Reed OBE MP - Secretary of State for the Environment, Food and Rural Affairs

Sign up to protect our countryside, fields and Green Belt at [communityplanningalliance.org](mailto:communityplanningalliance.org) #HomesForEveryone



## Appendix A: Letter, signed by 90 ecologists, sent to the CIEEM on

FAO Ms. Sally Hayns CEcol FCIEEM, Ms. Penny Lewns CEcol CEnv MCIEEM and Mr. Jason Reeves CEnv MCIEEM

Dear Ms. Hayns, Ms. Lewns and Mr. Reeves,

Further to your recent email newsletter dated 17th December 2024, as well as the release of the Government's Planning Reform Working Paper on Development and Nature Recovery, as CIEEM members we are aware that you intend to respond to this paper in early 2025. However, we have significant concerns about the implications of this paper for both the profession and for nature conservation. We respectfully request that CIEEM's response to the Working Paper address the following three points:

1. A direct response to the Government via the feedback link provided on the Working Paper.
2. A briefing note for CIEEM members on the potential business and ecological implications of the Working Paper for the ecology profession.
3. A briefing note outlining how CIEEM intends to facilitate discussions with central Government or civil servants to ensure the legislative changes genuinely support nature recovery and are evidence-led.

### Key Areas of Concern

We have identified several critical concerns that we believe should be addressed in CIEEM's response:

- 1. District-Level Licensing and Protected Species Mitigation**

The Working Paper suggests a universal rollout of district-level licensing for protected species mitigation. District level licensing is clearly applicable to some species, however we believe it is not suitable for all species or species groups and no evidence has been presented to suggest otherwise. For some projects and species, an evidence-based approach that considers site-specific baselines and applies the mitigation hierarchy remains essential. This is particularly critical for species where significant impacts cannot be mitigated through landscape-scale interventions (e.g., the destruction of bat roosts). Additionally, site-specific assessments are vital to account for the effect of 'death by a thousand cuts' from multiple local impacts at the landscape scale.
- 2. Impact on Habitats and Species Regulations (HRA/sHRA)**

The Working Paper indicates that the Competent Authority's Habitat Regulations Assessment (HRA) or adopted shadow HRA (sHRA) should only consider impacts not covered by a Delivery Plan. There is concern that the mitigation for project impacts via Delivery Plans lack clear timescales for implementation. This could undermine the conservation objectives of SACs, SPAs, and Ramsar sites if projects proceed before mitigation measures are implemented, or where securing the appropriate mitigation is delayed.
- 3. Economic Implications for the Ecology Sector**

The potential economic impacts on the ecology sector are deeply concerning, particularly regarding job losses resulting from the proposed changes. The Government's ambition to reduce or eliminate the need for protected species surveys will have significant consequences for ecological consultancies. Additionally, there is uncertainty on the

continued role of ecologists within Local Planning Authorities who may be impacted by these reforms.

**4. The Role of Local Nature Recovery Strategies (LNRS)**

Paragraph 25 of the Working Paper mentions that Delivery Plans may rely on existing evidence, such as Diffuse Water Pollution Plans (DWPP), Protected Site Strategies (PSS), or Local Nature Recovery Strategies (LNRS). As many counties will have LNRSs in place by 2025, it is crucial to clarify whether these will be relied upon for decision-making in place of site-specific surveys. LNRSs are not sufficient to inform appropriate mitigation or compensation for development projects.

**5. The Government's Rhetoric on Protected Species and Development**

The Government's claim that protected species and biodiversity are barriers to development is largely unsubstantiated. The evidence supporting this assertion is unclear, and we believe it warrants further scrutiny and challenge. While we broadly support legislative reform that benefits nature recovery alongside housing delivery, we stress that the reforms should be evidence-led. The success of district-level licensing for great crested newts does not guarantee similar success for other species or groups.

Delays resulting from protected species issues are often multifaceted. One key factor is the late commissioning of ecological surveys, which delays projects when surveys are not planned for at the outset. By integrating ecological surveys into the design phase and ensuring that designs are adapted to address ecological constraints, many delays can be avoided or mitigated. This is particularly effective when information from surveys is fed into pre-application discussions with the Local Planning Authority.

**6. Green Infrastructure and Climate Change Mitigation**

Nature recovery plays a vital role in the delivery and function of green infrastructure and climate change mitigation measures. The Working Paper suggests that offsetting biodiversity impacts at a landscape scale may undermine the delivery of high-quality green spaces that offer local benefits. We are concerned that this approach could restrict public access to nature and compromise green infrastructure delivery. Furthermore, the proposal for compulsory purchase powers to implement Delivery Plans raises concerns, particularly given the current limitations on land availability in England.

**7. Interaction Between Delivery Bodies and Local Ecologists**

The Working Paper states that Delivery Bodies will have the ability to recommend planning conditions to ensure high standards are maintained. However, it is unclear how this power will interact with local government ecologists. Will the Delivery Bodies replace local expertise, or will they work alongside it?

**Request for CIEEM's Action**

As CIEEM members, we kindly ask that you consider these concerns in your response to the Government. Additionally, we request that you inform CIEEM members of the next steps and the potential implications of the Working Paper for their businesses and jobs.

In addition, we consider that a joined-up approach to getting our views across to Government is necessary, and suggest that individual members are encouraged to send this letter or a similarly worded document directly to their MP to raise awareness and to communicate their concerns.



## Appendix B: The Editors' response to the Planning Reform Working Paper: 'Development and Nature Recovery', Habitats Regulation Assessment Journal

### The Editors' response to the Planning Reform Working Paper: 'Development and Nature Recovery'

David Tyldesley and Caroline Chapman

#### Introduction and context

The 'Development and Nature Recovery' working paper is not described as a consultation, but the summary explains that:

*"This paper invites views on proposals for a new approach to how housing and infrastructure development can meet its environmental obligations and contribute to nature recovery. The government wants to accelerate development while going beyond simply offsetting harm to unlock the positive impact this development can have in driving nature recovery." .... "If taken forward, the government would use the Planning and Infrastructure Bill to make the necessary legislative changes to establish a more efficient and effective way for Habitats Regulations and other environmental obligations to be discharged, pooling individual contributions to deliver the strategic interventions necessary to drive nature recovery. A series of questions are posed at the end of the paper, to inform further discussions before determining whether these proposals are taken forward."*

Given the determination to make changes reflected in the paper's authors' negative perceptions about the existing system of environmental assessments and the, not always well-informed, perceptions of how the development planning system interacts with nature conservation, it seems that changes will be made to the Habitats Regulations Assessment process. Some of the impediments to development are the result of successive governments' failure to ensure that international obligations<sup>1</sup> to manage and restore European sites and features to favourable conservation status have been met, most noticeably in the fields of water and air quality. So, some of the sites are in such a poor condition that environmental capacity to accommodate more development in their vicinity is inevitably reduced. That is not the fault of either the planning or the environmental assessment systems. Of course, we have heard these criticisms and propositions before. But as proposed changes are worked up, it soon becomes evident that it is not easy to remove these impediments to development whilst maintaining existing levels of environmental protection and stakeholder and public engagement. Moreover, the assessment process is strongly influenced by external factors, not least of which is unregulated activities or poorly regulated environmental damage, especially pollution. 'Win-win' outcomes are not easily won.

The paper does however recognise:

- in paragraph 5 that *"too often, housing and infrastructure experience additional costs and delays due to poor underlying environmental conditions arising from other causes"*; and
- in paragraph 14 that *"Developers are incentivised to secure only the actions required to address the impact of that development, and no more, with little to no regard to any wider environmental plan for the area. While this has been generally successful in addressing the impact of individual development, it has resulted in limited environmental improvement overall despite hundreds of millions of pounds being spent."*

The phrasing here implies that the existing system isn't delivering on nature's recovery as it should be. We feel that this is misleading because, before the statutory introduction of

Biodiversity Net Gain (BNG), the planning system has not had the mechanisms available to require developers to fund nature recovery and still has limited powers to require protected site management and restoration. Consequently, the 'hundreds of millions of pounds' were spent only on necessary mitigation and compensation. There was never any expectation that such funds would or should deliver environmental improvement.

We would support the very broadly expressed intended ends and much of our initial response is positive. Whilst constructive comment on the Paper's proposals is severely limited by the fact that the intended changes to the Regulations have not yet been identified, and there is little evidence presented to justify what they may do, there is enough for us to be able to discuss problems with the paper and the difficulties that we see in implementing its proposals. Difficulties that need to be addressed urgently and before the proposals are set in legislation.

#### Accentuating the positives

First, we agree the Government's general intentions to remove or reduce systemic impediments to desirable and acceptable development. And to use opportunities through funding provided by development not only to maintain the protection of protected sites, but also to facilitate nature recovery, including the remediation of the poor condition of many protected habitats as part of a wider recovery of nature. We welcome the following points drawn from the paper:

- *"the government will not reduce the level of environmental protection provided for in existing law" (para 11)*
- *"... we are committed to restoring nature, including sites of international and domestic importance .... while providing the necessary environmental headroom to support growth." (para 8)*
- *Changes to the Habitats Regulations and Wildlife and Countryside Act "does not mean moving away from the outcomes envisaged by existing environmental law, (para 11) and (in para 18) "We are committed to the outcomes envisaged by the Habitats Regulations but wish to improve how these can be achieved in the context of development."*
- *"...to start with addressing pollution and environmental harm at source .... taking more robust regulatory and policy action on a number of fronts." (see further paras 5 - 8)*

We agree that *"... Delivery Plans could only be put in place where there is sufficient confidence that they will achieve the better outcomes for nature over their lifetime. Where this is not the case, developers will continue to discharge obligations in line with existing legislation and practice".* Similarly, *"where development has other environmental effects that are not covered by a Delivery Plan, then those remaining effects will continue to be assessed and addressed in the usual way." (para 31).*





Part of the Thames Basin Heaths SPA, Chris Gibson © DTA Publications

We are pleased to note that “where a developer engages with the Nature Restoration Fund to address a specific environmental impact, the biodiversity gain requirement will continue to apply.... As we continue to develop this model, we will seek to identify opportunities to support the ongoing roll out and implementation of BNG.” (para 27); and to note the Government continues to “fully support” “a developing private marketplace for off-site biodiversity units.”

**The concept behind the proposals**

The paper indicates that the Government is carrying out a rapid review of the 2023 Environmental Improvement Plan under the Environment Act (para 5), amongst other things, “to develop new ambitious plans to save nature” (para 7) through a “new, statutory plan to protect and restore our natural environment at the scale and pace that is needed” (para 6). There is no indication as to the time scale of the outcomes of the review and the publication of the new statutory plan, for example, relative to the Planning and Infrastructure Bill (which will provide the statutory basis for the proposals in the working paper), or which legislation the new statutory plan will be published under.

The proposals are essentially a way for the Government to shift some of the cost of the obligations of Article 6.1 (site conservation management and restoration measures) and 6.2 (preventative measures) as well as the established project-based obligations of 6.3 (mitigation measures) and 6.4 (compensatory measures) wholly onto the shoulders of housing and infrastructure development, in Delivery Plan areas that may be established because of development impacts on European sites whose conservation objectives are affected by these activities. We say ‘wholly’ because even though the paper recognises that the Government may need to pump prime the Delivery Plans, it intends to recoup that cost (para 36). The paper is not shy about this, for example at paragraph 10, point

b, a goal is to “go beyond offsetting environmental impacts and instead use development to deliver positive outcomes for nature recovery”.

The delivery of some Article 6 obligations, through strategic delivery plans, funded by development contributions is not a new concept. Thames Basin Heaths was probably the first in the UK, over 15 years ago, and many have followed the same pattern since. But they:

- i. have been delivered through existing procedures and mechanisms by the competent authorities themselves (local planning authorities) leading other stakeholders, on the initiative of the statutory nature conservation body by and through local government; and
- ii. were intended as strategic mitigation measures to avoid the need for refusal of planning permissions or compensatory measures, and the developers funding the plan have not been expected to pay any of the cost of Article 6.1 and 6.2 measures. Indeed it was accepted at the time that a planning obligation-led system of strategic mitigation could not fund anything other than the mitigation of the development it was facilitating.

This proposal is different in the senses that:

- a. It will be initiated by Government (the Secretary of State) and delivered through statutory agencies i.e. led by central not local government.
- b. Where it applies it will, in the words of the paper (para 31) “supplant” the application of Habitat Regulations Assessments as currently applied in respect of the effects of development to be dealt with in the government led strategic Delivery Plans.

- c. It is clearly intended not only to deliver strategic mitigation measures, but also to deliver anticipated compensatory measures and Article 6.1 conservation management and restoration measures and, probably in some cases, Article 6.2 preventative measures,
- d. All of which are the reasons why it needs new legislation.

**But it all depends**

Whilst the proposals have potential and the objectives may be attainable, at least over time, there is a lot that they depend on, including the following concerns.

- a. Given the vague and general description of the proposals, exactly what is proposed in legislation and how far it goes.
- b. Whether the government will really hold to its commitment to maintain the level of protection of designated sites, even where such protection will still inhibit development (as it is bound still to do in some cases), if the Regulations are applied as they stand to the many and diverse potential effects on integrity that may not be covered by a Delivery Plan approach.
- c. What the Government thinks “*the outcomes envisaged by the Habitats Regulations*” are, which they are committed to achieving and supporting in the new legislation (paras 11 and 18).
- d. Whether these proposals will be accompanied by increased and far more effective regulatory control and enforcement, e.g. in respect of the water and agricultural industries, which in many cases will be essential to the achievement of the stated objectives (para 5).
- e. Whether the costs involved in Delivery Plans, from inception to monitoring / review and every stage in between, and the requirements of the associated Nature

Restoration Fund will be adequately covered and provided at the right times.

- f. Whether in reality, “*planning consents are secured more quickly and the aggregate cost to developers will be no greater than the status quo*” and their accepting the costs of this system in return for their asserted benefits and whether the implementation of the proposals will be a timely accelerator for “getting Britain building again”.

Paragraphs 13, 19 and 23 provide the main clues as to what a Delivery Plan may look like. The Plan will relate to a specified area where relevant development proposals will be affected, and actions will need to be taken to facilitate them. The plan will be initiated by the Secretary of State, who will charge a central government statutory body with the task of preparing the plan, implementing and monitoring it; with central government also reviewing its effectiveness. Fundamental to the Plan will be the prescription of actions necessary to be taken, their detailed specification and their costs which will need to be drawn from the Nature Restoration Fund.

Paragraphs 22 – 24 indicate the need for integration with other plans such as Protected Site Strategies, paragraph 25 refers to the obvious need for coordination and timescales are far too lightly addressed in paragraphs 28 – 30.

**Many crucial questions are raised**

But the lack of a detailed, or any practical, account of what the proposed changes to legislation may be, the evidence to support them and how the proposals will actually work, mean that there are serious questions, the answers to which are crucial to the effectiveness of the proposals in a meaningful timescale. These are some of the more obvious questions which the paper leaves unanswered thereby making it difficult to comment on the efficacy of the proposals.

- On what evidence-based criteria will the Secretary of State decide there is a need for a Delivery Plan for a particular area or issue?



Where directed to the recovery of protected sites, will Delivery Plans be adequately targeted at the conservation objectives of the qualifying features ...? Saltmarsh with Redshank *Tringa tetanus* Image by Chris Gibson © DTA Publications



## Box 1

Case Study – The River Mease Developer Contribution Scheme<sup>2</sup>

The River Mease SAC Developer Contribution Scheme (DCS) was implemented in 2012 to facilitate the delivery of development within the catchment of the River Mease SAC. The approach was similar to what is now described as a 'Delivery Plan', albeit without a requirement to deliver nature recovery. Essentially a suite of measures was identified to deliver improvements in water quality within the catchment; these measures were delivered centrally and funded through developer contributions. The DCS operated on a tranche model whereby measures were identified which corresponded to a defined quantum of development. When that quantum of development had been delivered a new suite of measures was then required to allow the next tranche of development to come forward.

The identification of measures to be delivered in what was referred to as DCS1 benefitted from a River Restoration Plan for the SAC having recently identified potential opportunities for positive works. So, the identification of DCS1 opportunities was fairly straightforward and efficient. The challenge encountered in practice was that the measures were to be delivered on privately owned land. Whilst provisional landowner agreement was a necessary pre-requisite of a measure being included within DCS1, unforeseen barriers emerged when it came to delivery. Negotiations and discussions with landowners were protracted and resulted in significant delays in the delivery of measures.

When the quantum of development provided for by DCS1 was permitted, the planning authorities involved explored the potential for a DCS2. Further measures were identified and DCS2 followed in 2016. When the quantum of development provided for in DCS2 had been permitted the authorities then set out to explore a DCS3, but DCS3 was never taken forwards due to an absence of feasible further measures which could realistically be delivered within the catchment.

needed to meet statutory procedures not fully defined or finalised.

The River Mease Developer Contribution Scheme in Northwest Leicestershire, related to the River Mease SAC. It is a good example of the kinds of problems that a Delivery Plan may encounter and demonstrates the challenges ahead for a Delivery Plan to bring forward mitigation, management and restoration actions even for a single pollution issue, over an extended timeline – see box 1.

There are two particularly important lessons to be learnt from the River Mease SAC case. First, it is highly likely that to achieve their goals, Delivery Plans will need to include measures that need to be undertaken on privately owned land. The working paper states at paragraph 26 that *'Delivery bodies will be provided with the tools they need to secure outcomes directly where needed...'*. This may imply that Government acknowledges the need for delivery bodies to exercise new as well as existing statutory powers. Without measures such as compulsory purchase (whether of land itself or rights over such land), the delivery of positive 'mitigation' and 'nature recovery' measures on privately owned land may encounter considerable difficulties. Compulsory purchase or negotiating legal obligations or undertakings could be costly and time-consuming and may be encountered late in a Delivery Plan's timeline meaning that insufficient resources will be available because they were not anticipated during earlier stages. Will delivery bodies have the resources, confidence, determination and political will to use statutory powers in this way?

Secondly, Delivery Plans geared to the release of tranches or phases of development will lead to a quest for more and more measures to achieve mitigation of environmental effects, some of which may not be foreseeable at the outset of the Plan, this is before the identification of additional measures needed for nature recovery. The paper underestimates the difficulties that might be encountered on the ground in identifying, designing, testing, specifying, funding, facilitating and executing feasible and practical measures to achieve a Plan's objectives, whilst development may be being released. There is a real risk that effects from development which might come forwards whilst the nature and extent of measures to be delivered are identified and secured will hamper the achievement of the Plan's targets. There is a possibility that whilst the early release of development may accelerate the building of housing and infrastructure, the time gap between the effects of the

development and the implementation of measures to offset them and provide the conditions for nature recovery will be increasingly stretched.

The expectation that Delivery Plans will be "streamlined documents" (para 24) seems optimistic even if underpinning analyses, methodologies, assessments, specifications etc. are separately published. The package that will represent the Plan as a whole is likely to be a substantial body of work. It will need to be substantially in place before the Secretary of State could (a) have the confidence to sign it off, (b) justify the financial contributions developers are expected to pay into the Nature Restoration Fund and (c) allow the Plan to supplant the Habitats Regulations Assessment process, where relevant, in respect of the effects of the development covered by the Plan.

The associated press release says that *"Under these reforms, developers will instead be able to pay into the fund allowing building to proceed immediately – quicker, simpler, and more certain than the broken status quo. A delivery body, such as Natural England, will then take responsibility for securing positive environmental outcomes.* The intention to allow potentially harmful development to proceed ahead of any action to be taken to mitigate the harm, and indeed ahead of any preparatory work on the Delivery Plan, betrays a fundamental misunderstanding as to how ecological impacts can be remedied and that further progressive impacts on nature may render recovery impossible or even more difficult, costly and time consuming.

If the Government is committed to maintaining the outcomes envisaged by the Habitats Regulations, to be legally compliant those Delivery Plans relating to the protection and restoration of European sites will need to satisfy the test that developments excused from individual assessment would not have an adverse effect on the integrity of the site, alone or in combination with other plans and projects.

#### The Nature Restoration Fund

The Government is expecting not to have to bear any costs for the Delivery Plans, in the long-term, even though initial funding to prime the process will surely be inevitable. *"The Government may in some instances provide upfront funding to a delivery body to commence actions identified in Delivery Plans in advance of need, with costs recovered over time as*



development comes forward. This could allow this model to unlock development more quickly and provide greater assurance of nature restoration." (para 36) This extract also implies that the up-front funding would not include the preparation of the Delivery Plan itself but would only start to "commence actions identified in Delivery Plans". Will the delivery bodies have the resources to prepare the Plans?

There is very scant explanation in the paper as to what the "Nature Restoration Fund" will be. It is first mentioned in paragraph 27 and only mentioned four times ahead of the Case Studies. However, we have noted some additional references to the Fund in the Press Release. The paper says: "We would establish a Nature Restoration Fund to underpin actions identified by Delivery Plans under this mechanism." So, there will be a single Nature Restoration Fund covering all Delivery Plans, i.e. a centralised pot from which the delivery bodies presumably apply to draw their resources for implementation. The Government asserts that "This is not a new financial burden since developers already have to meet the cost of project-specific measures. Rather, the Fund is seeking to streamline the process for developers while maximising the environmental impact of the funding by directing it towards real world action." (para 33).

Paragraph 34 says: "Instead, [developers] would commit to making the relevant payment into the Nature Restoration Fund, which would be used to fund the strategic actions. Once the payment was made, subject to any relevant conditions (such as common design standards) the development would be able to proceed."

"the Government's intention is that outcomes for nature are significantly improved, planning consents are secured more quickly, and the aggregate cost to developers is no greater than the status quo." This is a bold statement given the likely costs of establishing, implementing, monitoring and reviewing Delivery Plans and the Nature Restoration Fund compared with the "small, poorly targeted, and time-consuming project-specific" assessments and obligations criticised in paragraphs 4 and 35.

The Press Release issued with the paper is more robust and ambitious in its claims.

"Under these reforms, developers will instead be able to pay into the fund allowing building to proceed immediately – quicker, simpler, and more certain than the broken status quo. A delivery body, such as Natural England, will then take responsibility for securing positive environmental outcomes, for example, delivering a reduction in nutrient pollution affecting the water environment or securing habitats to increase the population of a protected species. ...."

The proposals set out three steps the government will take to help developers get building while delivering their environmental obligations in a more sensible and strategic way. This approach will mean developers don't have to pay for individual site level assessments for the matters covered by the Nature Restoration Fund – which adds cost and delay – and will no longer have to deliver mitigation needed. A single payment will enable development to proceed. A delivery body will then take the actions needed to drive nature recovery at a strategic, not site-by-site, scale:

- Government will lead a single strategic assessment and delivery plan for an area – not an individual site – which will allow decisions to be made at an appropriate geographic scale. The current process is uncertain and costly, with assessments on issues such as nutrient neutrality requiring bespoke calculations and significant technical expertise at the level of each individual project. This also misses the opportunity to support the best outcomes for nature.

- A public delivery body will consider which actions are needed to address the environmental impact of development across an appropriate area and determine how much developers will pay into the Nature Restoration Fund. The delivery body will secure the actions funded by developers, removing the need for actions to be taken on a case by case basis.
- Contributions will be secured from developers to fully fund nature recovery actions. This would enable developers to meet certain environmental obligations through a single payment into the Nature Restoration Fund – which would streamline the process and maximise the impact of money spent on nature by directing it to real world action instead of paperwork and process.

But as we have explained, developers are not currently funding the restoration of nature (other than through BNG which will still be the case) or the management and restoration and preventative measures, such as regulating and reducing pollution, for the habitats and species of protected sites e.g. as required by Article 6.1 and 6.2 of the Habitats Directive.

There is no evidence that the Government has made any attempt to establish whether:

- the aggregated cost of the much-criticised individual project-based assessments born by developers now and any cost savings resulting from shorter timescales to reach development consent will be the same as, or less than, the cost of preparing administering and executing Delivery Plans and their restoration measures not currently covered by developers, or
- strategic mitigation will be cheaper than project-based mitigation already paid for by developers.

If either, or both, of these are not so, then either the Nature Restoration Fund will be inadequate, even to meet the status quo, or it will cost developers more than the status quo in order



River Mease, Edingale to Croxall improvement completed by Trent Rivers Trust 2021 courtesy River Mease Partnership



to fund the plans, the mitigation and the restoration. Furthermore, the difficulties associated with building sufficient capacity in the Fund quickly enough to fund the preparation and early implementation of the Delivery Plans are manifold, timescales underestimated, and the paper is silent about the gearing of development consents to mesh with resources available. It could take a long time for the Plan delivery bodies to cost the actions required and so to inform the calculations as to how large the Fund will need to be. Whether or not it is recouped in its entirety, the Government is likely to have to provide up-front funding of millions of pounds to make the system work without any precise calculation as to how much will eventually be needed.

And equally important, if developers are to pay for the proposals, should their bill include costs that will need to be incurred to protect, manage and restore sites owing to failures of the water industry to invest and comply, or to make good the inadequacy of government spending, year on year, through statutory bodies such as Natural England and the Environment Agency to remedy the harm to sites resulting from uncontrolled activities or poorly regulated pollution control in agriculture and other land uses. If developers are not expected to pick up this tab, it could take a long time to agree the proportion of the costs that Government and the other industries ought to pay.

#### Our preliminary answers to the questions in the paper

These are the questions on which the Government Paragraph 64 says "We would welcome views on the options set out in this paper, and in particular on the following questions". But it is hard to find genuine options set out in the paper. In terms of the questions, these would be our preliminary views in absence of useful detail about the proposals.

**a. Do you consider this approach would be likely to provide tangible improvements to the developer experience while supporting nature recovery?**

It will be evident from this response that it is impossible to say without further information. It depends on many factors some of which are discussed in this response, including the actual statutory changes, their practical application, the Government genuinely honouring its undertakings about maintaining the level of protection and restoration of protected sites and the habitats of protected species. There are many crucial questions to be answered, details to be thought through by experienced practitioners and a much more realistic appreciation of the timescale for preparing and starting to implement the Delivery Plans and how nature recovery could be achieved through this system. Our greatest concern is that, however well-intentioned the strategic approach to delivering measures for nature recovery may be, releasing tranches of housing and infrastructure development ahead of dealing with their ecological and other environmental impacts in an effective and timely manner linked to the timing of the actual impacts occurring, is likely to lead to making it more difficult to mitigate their effects and to achieve the outcome of nature recovery in the long-term.

**b. Which environmental obligations do you feel are most suited to this proposed model, and at what geographic scale?**

Environmental obligations related to water quality would appear best suited to the proposed Delivery Plan model. This is due to the dispersed nature of the effect footprint and the contribution from numerous individual sources. Air quality requires careful handling depending on the pollutant concerned. Pollutants which readily disperse such as nitrogen oxides are better suited to a Delivery Plan model than pollutants with strong localised ecological impacts such as ammonia. On the other hand, impacts such as habitat loss are less well suited to the model as replacement habitat rarely has the same ecological value as the habitat which exists at the time.

**c. How if at all could the process of developing a Delivery Plan be improved to ensure confidence that they will deliver the necessary outcomes for nature?**

It will be evident from this response that there is insufficient information provided as to how a Delivery Plan will be produced, what it may be like and what its outcomes might be to answer this question except to say that consultation, sequence of actions, timing and funding will be crucial.

**d. Are there any additional specific safeguards you would want to see to ensure environmental protections and / or a streamlined developer experience?**

The release of development, which is dependent upon a given Delivery Plan, should be conditional on milestones within a Delivery Plan. This could be achieved through the provisions of the Delivery Plan and / or through development plans, either through programming measures or the use of policy specific caveats or restrictions<sup>3</sup>.

**e. Do you support a continued role for third parties such as habitat banks and land managers in supplying nature services as part of Delivery Plans?**

Yes

**f. How could we use new tools like Environmental Outcomes Reports to support this model?**

More information is required about the types, scales and locations of developments and the nature, scale and geographic area of effects that would be covered by Delivery Plans and how competent authorities will be expected to deal with issues in Environmental Outcomes and Habitats Regulations Assessments relating to environmental effects included and excluded from the strategic approach in Delivery Plans.

**g. Are there any other matters that you think we should be aware of if these proposals were to be taken forward, in particular to ensure they provide benefits for development and the environment as early as possible?**

Yes. The most important are set out in this article / response.

*David Tyldesley is Co-Director of DTA Publications Ltd, co-author of the Handbook and co-editor of the Journal. Caroline Chapman is the Director of DTA Ecology Ltd and is also the co-Director of DTA Publications.*

#### Footnotes

<sup>1</sup> For example, Article 6.1 and 6.2 of the Habitats Directive through regulation 9 of the Habitats Regulations 2017

<sup>2</sup> [https://www.nwleics.gov.uk/pages/developments\\_within\\_the\\_catchment\\_area\\_of\\_the\\_river\\_mease\\_special\\_area\\_of\\_conservation](https://www.nwleics.gov.uk/pages/developments_within_the_catchment_area_of_the_river_mease_special_area_of_conservation) (refer historic advice referred to at the bottom of the webpage)

<sup>3</sup> See section F.10.1.2 – F.10.1.4 of the HRA Handbook