

Written evidence submitted by The Woodland Trust to the House of Commons Committee on the Planning and Infrastructure Bill (PIB63)

1. Introduction

- 1.1 As the UK's leading woodland conservation charity, the Woodland Trust aims to protect native woods, trees and their wildlife for the future. We own over 1,000 sites across the UK, covering over 30,000 hectares and we have over 500,000 members and supporters. We are an evidence-led organisation, using existing policy and our conservation and planning expertise to assess the impacts of development on ancient woodland and ancient and veteran trees and ensure their protection within local and national planning policy.
- 1.2 For any questions about this response, please contact Juli Titherington, Lead Planning Policy Advocate at the Woodland Trust (JuliTitherington@woodlandtrust.org.uk).

2. Executive Summary

- 2.1 The Woodland Trust (the Trust) recognises the drive for sustainable development and growth outlined in the Government's Plan for Change, and the intentions of the Planning and Infrastructure Bill to help deliver both the housing and improved infrastructure we need, alongside protecting and restoring our declining natural environment. The Trust recognises the critical need to achieve both.
- 2.2 However, we hold significant concerns regarding how Part 3 of the Bill will work in practice, and we are concerned by the **lack of clarity and scale of ambition for nature recovery**. We also question whether the reliance on the planning system to deliver towards our legally binding environmental targets will be effective. A range of funding and delivery mechanisms is vital for nature recovery and the achievement of Government species and habitats targets.
- 2.3 We hold significant concerns regarding **the removal of the need for site-specific assessment** of development proposals in favour of strategic level assessments. For effective application of **the mitigation hierarchy**, both are needed at plan and project level for the delivery body to be able to design suitable mitigation projects to address any impacts.
- 2.4 For example, **ancient and veteran trees** – recognised as irreplaceable habitats by Government – are under-mapped within the landscape¹. While the Trust's Ancient Tree Inventory² is a valuable resource for identifying ancient, veteran and notable trees across the UK, it is far from being a complete record and is a living database which is constantly revised when new trees are identified. Arboricultural surveys and subsequent Arboricultural Impact Assessments are therefore crucial for identifying these habitats

¹ Nolan, V., Reader, T., Gilbert, F. *et al.* The Ancient Tree Inventory: a summary of the results of a 15 year citizen science project recording ancient, veteran and notable trees across the UK. *Biodivers Conserv* **29**, 3103–3129 (2020). <https://doi.org/10.1007/s10531-020-02033-2>

² [Ancient Tree Inventory - Woodland Trust](#)

within a development site and implementing appropriate mitigation and avoidance principles in line with Government guidance.³

2.5 Other clarifications needed include:

- the role of the Office for Environmental Protection in Delivery Plan development and scrutiny.
- the role of Biodiversity Net Gain and how its relationship to the NRF is envisaged given the overlapping aims.

3. Woodland Trust Response

3.1 There is currently a lack of clarity about the scale and ambition for nature recovery outlined within the proposed legislation. We are concerned that the emphasis of the Bill is primarily focussed on ensuring the delivery of development, with funding for nature recovery being exclusively linked to harm from development to nature. Nature recovery also needs funding via sources that are independent of development, in addition to the important 'polluter pays' principle for nature loss and subsequent compensation.

3.2 It is crucial that there is the appropriate ecological expertise and funding to ensure nature's recovery, otherwise the proposed approach will not deliver the gains envisaged. It is widely acknowledged that ecological expertise is experiencing a skills shortage, both within Local Planning Authorities and Statutory Nature Conservation Bodies⁴. Therefore, funding from the Nature Restoration Fund should also be allocated to increasing resources for these key bodies.

3.3 For successful delivery of improved environmental outcomes, mitigation for development must be front-loaded as part of the development proposals, with agreed Environmental Delivery Plans (EDPs) supported by robust environmental data underpinning decision-making. Only then can a permitting or consenting process that is streamlined truly deliver for nature with predictability and stability⁵. This in turn will ensure that the mitigation hierarchy is sufficiently adhered to and reduce objections from statutory consultees and other stakeholders at application stage. A key principle of the new approach should be the fundamental need to consider all alternative options before the use of the Nature Restoration Fund (NRF) as a last resort.

3.4 We do not believe that EDPs will be appropriate in all circumstances, and therefore the retention of the mitigation hierarchy for protecting existing habitats must be embedded into design considerations. Given the irreplaceable nature of ancient woods and ancient and veteran trees, it is not possible to compensate for their loss, so a developer contribution to the NRF will not be appropriate in those circumstances. The NRF should

³ [Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK](#)

⁴ See attached reports: [ALGE-ADEPT Report on LPAs and BNG.pdf](#), [Improving our service to Local Planning Authorities for nature people and climate.pdf](#), [Local Authority Planning Capacity and Skills Survey 2023 - Survey report](#)

⁵ An example of this approach from California: [The Final East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan](#)

approach irreplaceable habitats in the same way as BNG, which accounts for ancient woodlands and ancient and veteran trees separately within Defra's biodiversity metric.

- 3.5 It is currently unclear how EDPs will interact with other strategic frameworks such as the Land Use Framework, the Strategic Spatial Energy Plan and locally led plans such as Local Plans. The Responsible Authority for Local Nature Recovery Strategies (LNRs) may be of a suitable scale to secure the nature recovery improvements in the habitat types which are a local priority. The Government should ensure that woodland creation and restoration projects are not disincentivised due to longer timescales required for their establishment. The NRF could provide a real opportunity to improve planting and restoration rates, which will be key to reaching the targets set out in the Environmental Improvement Plan.
- 3.6 Furthermore, it has been challenging for the Trust, and its peers, to reconcile the conflicting rhetoric from the higher levels of government that has depicted nature as a blocker to development while also professing to desire a win-win for nature with the recent planning reforms. As currently worded, the clauses within this Bill appear designed to speed up development by weakening existing and long-standing nature legislation, despite evidence demonstrating that there is no need to sacrifice one for the other. Losing protection for designated sites or protected species would be contrary to the international commitment to 30% protected land by 2030 (aka 30x30) and put England at odds with the other three devolved nations of Great Britain. We would strongly resist opening up of our primary nature legislation, e.g. Habitats Regulations and Wildlife and Countryside Act.
- 3.7 We want to help support the Government to achieve both aims of nature recovery and the delivery of healthy, sustainable communities. Please see the Trust's Tree Equity Programme⁶, which demonstrates how to achieve more equitable access to trees and green spaces for the benefit of communities and nature. We feel this Bill misses an opportunity to embed good design principles⁷ and development master-planning that could deliver high quality homes and developments that makes people's lives better. Instead of seeing nature as a barrier to be moved aside, we wish to see a stronger emphasis on well-designed, equitable access to trees and green spaces for communities and nature, thereby shaping places where people will choose to live, work and spend leisure time with all the benefits to the economy that follow.
- 3.8 As there are no specific questions attached to this call for evidence, we have compiled a table outlining the clauses of the Bill we feel require further attention via either amendment or clarification or other mechanisms. These concerns are all ones that we feel are critical to ensure the success of this Bill to genuinely achieve more for both development and nature.
- 3.9 *We also support Wildlife and Countryside Link's response to the Working Paper⁸, alongside a number of other environmental organisations and support Link's position on the Planning and Infrastructure Bill more broadly.*

⁶ [Tree Equity Score UK](#)

⁷ <https://wcl.org.uk/wilder-by-design.asp>

⁸ [Link_response_Nature_Restoration_Fund_working_paper_Feb2025.pdf](#)

Clause	Woodland Trust Comment
Clause 24	<p>Issue: Currently this clause provides no clear legal protection/conditions that would ensure protection of existing Government priority habitats, including irreplaceable ancient woodland. Whilst it refers to the existing legal balancing duty (section 1 (3A)) between timber production and nature conservation, the “reasonable balance” expected between these aims is not defined. In addition, those responsible for judging a “reasonable balance” (Forestry Commissioners) only legally have to have expertise on timber, not on nature conservation or renewable energy development.</p> <p>Potential solution: Updating the legal duties of Forestry England/Forestry Commission to reflect the range of 21st century objectives which government and the public expect the public forest estate to deliver in their Environmental Improvement Plan. Also, to broaden the knowledge/experience expected of the Forestry Commissioners overseeing decisions on development.</p>
Clause 48	<p>Issue: We ask for clarity on which Secretary of State (SoS) will be responsible for signing off Environment Delivery Plans (EDPs). This Bill is introduced through MHCLG, implying its SoS is the authority.</p> <p>Potential Solution: Given its remit, it would not be reasonable to expect MHCLG to have the appropriate expertise to support its SoS on reviewing EDPs. There is a need for robust scientific data and mitigation to make EDPs successful; the full weight of government’s relevant experts must be involved in the approval of the plans that intend to deliver for nature. By this token, the SoS for the Environment (EFRA) is the most appropriate approval body.</p>
Clause 49	<p>Issue: The proposed legislation offers no instruction on whether multiple EDPs will be required for the same area of land (for example if only certain species/habitats are covered). The natural environment is a complex landscape where more than one ecosystem can occupy a relatively small space.</p> <p>Potential Solution: We ask for the Government to reconsider and clarify how the principle of multiple environmental receptors - which could require individual dedicated delivery plans – will be handled in decision-making.</p>
Clause 50	<p>The Trust welcomes the ability for contingency measures to be built into the EDP if recovery actions are not successful.</p> <p>Issue: However, we feel more detail is needed to make this meaningful and ensure follow through. We question how regularly the outcomes will be monitored, and who will be required to undertake monitoring. If the</p>

	<p>monitoring body is either a public or charity organisation, will sufficient funding be made available? What is the mechanism for rectifying or adaptive management within the EDP area? Who will pay for those activities?</p> <p>Potential solution: The government must clearly outline the process for effective outcome monitoring, adaptive management, and funding streams and timescales to deliver those management actions <u>before</u> any EDP comes into effect.</p>
<p>Clause 51</p>	<p>Issue: The Nature Restoration Fund charging schedules will vary upon the specific EDP and its proposed conservation measures. We have questions on how this would work in practice. There is the potential for this to become complicated and therefore unwieldy for both nature and development.</p> <p>Potential solution: We ask the Government to build in a process that includes deterrents to development in areas where irreplaceable habitats (e.g. ancient woodland and ancient trees) could be damaged or lost.</p>
<p>Clause 52</p>	<p>Issue: The removal of the requirement for protected species licencing within an EDP is concerning given the clear parameters (including acceptable proposes and tests) for issuing licences are laid out in existing legislation. We are also concerned that the tacit licence issued through the EDP will not be based on any baseline or impact assessment. This would result in unknown impacts on species (e.g. would the development result in a loss of key breeding sites?) and is likely to lead to insufficient or inappropriate mitigation and compensation. This can also result in efforts to compensate being less efficient or cost effective than it could otherwise have been (as learned through decades of positive development methods). In the case of particularly rare or sensitive species, it could result in catastrophic loss of populations, i.e. local extinctions.</p> <p>Potential solution: In order to comply with long-standing wildlife legislation and well-established ecological knowledge, baseline surveys (adhering to published, good practice standards) are required to inform meaningful and appropriate mitigation measures. Such surveys are also used for long-term monitoring of the range and distribution of such species.</p>
<p>Clause 54</p>	<p>Issue: It is not clear from the Bill which government bodies will be responsible for different aspects of environmental policy. The Bill also seems to deliberately exclude any expertise from sources outside government. It is also not certain where the checks and balances lie between the drafting of an EDP and monitoring of effectiveness. Should a body be permitted to mark its own homework?</p>

	<p>Potential solution:</p> <p>The Government should reconsider how best to deliver effective EDPs while utilising the best science available, no matter the source, without sacrificing quality for expedience. We would also like to have reassurance on transparency of the process. We also ask for more clarity on responsible bodies and monitoring authorities – i.e. is it appropriate for the body who drafts the EDP to also be the same body who then monitors it for success?</p>
Clause 55	<p>Issue:</p> <p>The “overall improvement test” is not clear on how it will not just outweigh the negative effect (no net loss) but on how it will result in demonstrable improvements. Again, the lack of surveying would make it impossible to rigorously monitor the EDP.</p> <p>Potential solution:</p> <p>As above, require baseline surveys in accordance with established good practice guidelines.</p>
Clause 58	<p>Issue:</p> <p>Amendment of an EDP can be at the direction of the SoS. As above, it is not clear which SoS will hold this power or influence over EDPs. Also, it is not clear what conditions would make such an action allowable. It is open to abuse by future government ministers not involved in the creation of this Bill or subsequent EDPs.</p> <p>Potential solution:</p> <p>Safeguards need to be included to ensure that any SoS cannot simply withdraw an EDP to push a development through. Transparency and a framework of acceptable conditions where an amendment or revocation is appropriate needs to be agreed in advance.</p>
Clause 61	<p>Issue:</p> <p>We are very concerned that this clause would allow a developer to undertake actions which would otherwise constitute an offence and no recourse to consent in accordance with the legislation. The EDP should not be a mechanism for allowing bad or extremely damaging developments to be permitted.</p> <p>Potential solution:</p> <p>The Government should adhere to high standards for developments for both the sake of local communities and local nature. The nature legislation in effect in the UK has been reviewed several times over the course of successive governments and found fit for purpose. This clause would appear to act to undermine those long-standing legislation without due scrutiny or debate.</p>
Clause 62	<p>Issue:</p> <p>We are very concerned that this clause would undermine the whole of Part 3 and the nature restoration fund. It would act as encouragement for developers to always argue against the economic viability of paying into the fund. It would also likely result in the government bearing the full cost</p>

	<p>burden of undertaking the EDP, which would put undue strain on government finances. It is a backward step at a time when we have a budding nature finance market to help us deliver more for nature.</p> <p>This “economic viability” loophole is already regularly used by housing developers when avoiding the requirement to deliver affordable housing. A recent report using data from the Planning Portal⁹ identifies that slow progress to date towards housing targets is due largely to a lack of build-out rates of existing permissions, a consequence of economic factors such as inflation and skills shortages, rather than to the environmental requirements needed to protect nature. The University of Kent’s BIO-WELL project¹⁰ has also recently provided clear evidence that spending time in nature improves wellbeing for communities, adding to an ever-growing evidence base for the vital role of nature and wildlife in supporting our economy, society and security. It is imperative that our existing habitats are retained, protected and enhanced for the benefits to both people and wildlife. This supports recent findings in a poll by the Wildlife Trusts that shows that <i>“66% of the UK public believes that nature is fundamental to economic growth”</i>¹¹.</p> <p>Potential solution: Remove this loophole and incorporate the Polluter Pays Principle in planning consent.</p>
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⁹ [The Planning Portal Application Index Report.pdf](#)

¹⁰ [BIO-WELL: the biodiversity and human wellbeing scale](#)

¹¹ [New poll shows two-thirds of the public believes nature is fundamental to economic growth, so should the UK Government really be forging ahead at any cost? | The Wildlife Trusts](#)