Plantlife The global voice for wild plants and fungi

Planning and Infrastructure Bill inquiry – House of Commons Public Bill Committee
April 2025

Summary

We recommend that the UK Government:

- Provide support for Local Planning Authorities to boost and upskill their in-house ecological expertise, particular in botany and mycology;
- Publish a public consultation on the list of Irreplaceable Habitats, and include priority habitat grasslands that meet the irreplaceability criteria in order to secure vital protections for these rare and threatened habitats;
- Ensure the 'mitigation hierarchy' is upheld: developers are required to avoid and mitigate harm in the first place in line with the mitigation hierarchy and, where harm does take place, compensatory measures should be delivered upfront;
- Maintain existing environmental protections, such as those afforded by the Habitat Regulations.

Plantlife is the global conservation charity working to secure a world rich in wild plants and fungi. Plantlife owns 24 nature reserves covering nearly 4,500 acres across England, Scotland, Wales and the Isle of Man. It carries out conservation and outreach work on its own land and in partnership with many others. Plantlife advises landowners and farmers, and gathers data to inform government policy.

Robust ecological assessments

1. Accurate ecological data and advice underpins good and timely decision-making in planning at local and national levels. Having easily accessible and accurate survey information about onsite habitats, plant and fungi species, and historical management at the start of a project, can help speed up the overall process by preventing delays further down the line from inaccurate or incomplete information.

2. There is clear evidence of **ecological capacity, skills, and data gaps across within the planning system, which the Office for Environmental Protection (OEP) has identified as a key reason for the current system of environmental assessment not functioning effectively**.[1] In 2022, a report found that, of local authorities surveyed, 95% reported that they 'have no or very limited capacity to ensure most, if not all, applications are assessed by an ecologist'.[2] This has been exacerbated by budget cuts to Local Planning Authorities (LPAs). These gaps are even more acute for botany and mycology (fungi); botany was once a

[1] https://www.theoep.org.uk/report/environmental-assessments-are-not-effective-they-should-be-duepractical-barriers

[2] Snell, L. and Oxford, M. (2021) Survey of LPAs Ability to Deliver Biodiversity Net Gain in England. Do LPAs currently have the necessary expertise and capacity? Available at: https://media.adeptnet.org.uk/sites/default/files/media/2022-07/ALGE-ADEPT%20Report%20on%20LPAs%20and%20BNG.pdf

compulsory component of many biology degrees and school programmes, but is 'now practically non-existent' in the UK.[3]

3. The Government is proposing 'mandatory training' for planning officers; **we recommend that the UK Government provides support for Local Planning Authorities to boost and upskill their in-house ecological expertise, particular in botany and mycology**.

4. Through site-specific robust ecological assessments, impactful and nuanced mitigations and compensations can be delivered to address unique local issues, for example through Local Nature Recovery Strategies (LRNSs). Via the proposed strategic approach (the Nature Restoration Fund), there is no incentive for developers to design and deliver on-site high-quality green infrastructure, which can be a vital point of connection between local residents and nature, and deliver additional benefits, such as wildflower-rich grasslands providing urban cooling and pollination services. Developers should deliver high-quality green infrastructure and nature-rich areas for residents on-site, and their management and maintenance should be strongly enforced by empowered and well-resourced LPAs. For example, wildflower-rich grasslands that do not have long-term and appropriate mowing/cutting regimes at the right time of year and at the right frequency will become degraded and may ultimately revert to scrub. A study[4] conducted on biodiversity compensatory measures in 42 developments across 5 Local Planning Authorities suggested that there is a systematic lack of compliance, monitoring, and enforcement of compensatory measures. In those sites surveyed, 59% of wildflower grasslands had either not been sown correctly, or have been mown incorrectly so that their species diversity has been lost.

5. The Government has announced that they plan to remove the requirement for statutory consultation in the pre-application period for Nationally Significant Infrastructure Projects (NSIPs). This risks development delays, expensive redesigns, and last-minute mitigations further down the line, without the critical opportunity for early input via the Preliminary Environmental Information Report.

[3] Stroud, S., Fennell, M., Mitchley, J., Lydon, S., Peacock, J. and Bacon, K.L. (2022). The botanical education extinction and the fall of plant awareness. *Ecology and Evolution*, 12(7). doi:https://doi.org/10.1002/ece3.9019.

[4] https://wildjustice.org.uk/wp-content/uploads/2024/12/Wild-Justice-Lost-Nature-Report.pdf

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Irreplaceable habitats

6. Irreplaceable Habitats (IHs) have been defined as England's most ecologically valuable terrestrial and intertidal habitats, that cannot be successfully or easily restored, created or replaced within a meaningful timeframe. In the latest (2024) National Planning Policy Framework (NPPF) in England[5], IHs are given additional protections within the planning system, where 'development resulting in the loss or deterioration of irreplaceable habitats (...) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists'. Those 'wholly exceptional reasons' are not defined beyond 'where the public benefit would clearly outweigh the loss or deterioration of habitat', or in the case of Nationally Significant Infrastructure Projects. However, this is often very subjective and open to interpretation, with no clear definition, criteria or rationale behind those habitats currently listed on the NPPF, which does not include any priority habitat grasslands.

7. The criteria given on the IH GOV.UK webpage[6] for determining the irreplaceability of habitats are: age, uniqueness, species diversity, and rarity. An interim IH list for the purpose of Biodiversity Net Gain (BNG) implementation was published on GOV.UK in February 2024; IHs are excluded from the BNG Metric and development that harms them is only permitted in exceptional circumstances. However, **there are stark gaps in the list of IHs which, if not addressed, risk the permanent and irreversible loss of some of England's rarest and most unique nature-rich habitats which meet the criteria**.

8. The interim IH list has 8 habitats[7], yet **no types of priority habitat grassland are currently included on the list**. Priority habitats are the UK's most threatened habitats, in need of conservation action, as listed under section 41 of The Natural Environment and Rural Communities (NERC) Act. **Priority habitat grasslands meet the IH irreplaceability criteria** of age, rarity, species-richness, and uniqueness. The interim IH webpage included a commitment (from the previous UK Government) to publicly consult on the interim IH list in 2024. However, **this IH list consultation has not yet taken place.**

9. Large-scale losses of England's priority habitat grasslands over the last century have been well-documented[8], with remaining remnants now highly fragmented. Inappropriate development is a key driver of habitat loss, with minimal safeguards in place that protect these priority habitat grasslands. There is no method to centrally track how many are destroyed by development, as set out in the Parliamentary Question response[9]. Therefore, **the Government does not know how much priority habitat grassland is being cumulatively destroyed by development across England**, which is at odds with the statutory target within the Environmental Improvement Plan (EIP) to 'restore or create more than 500,000 hectares

[5] https://www.gov.uk/government/publications/national-planning-policy-framework--2
[6] https://www.gov.uk/guidance/irreplaceable-habitats
[7] Ancient woodland; Ancient and veteran trees; Blanket bog; Limestone pavements; Coastal sand dunes; Spartina saltmarsh swards; Mediterranean saltmarsh scrub; Lowland fens.
[8] https://www.plantlife.org.uk/wp-content/uploads/2023/07/Plantlife-report-1-Status-Trends-and-Definitions-of-UK-Grasslands.pdf
[9] https://questions-statements.parliament.uk/written-questions/detail/2023-02-20/HL5660

of wildlife-rich habitat by 2042'. Particularly given the fragmented nature of many priority habitat grasslands in isolated pockets less than 2ha, there is a risk that – without protections - **development is granted on these small patches that cumulatively adds up to a largescale loss of these already rare habitats**.

10. Although estimates vary, the extent of priority habitat grassland across the UK has previously been estimated at around 244,376 ha, so roughly under 1% of the UK's area[10] (in England this will be a smaller area), most of which is restricted to upland areas. **Priority habitat grasslands cover a tiny proportion of England's land**. In comparison, blanket bog is listed as an IH and covers 244,536 ha of England[11], and ancient woodland covers 364,889 ha.[12]

11. **We recommend that the UK Government urgently publishes a public consultation on the interim IH list, which is expanded to include priority habitat grasslands that meet the irreplaceability criteria** in order to secure vital protections for these rare and threatened habitats.

Protections for habitats and species

12. The UK Government's proposals are for a new 'Nature Restoration Fund' to be a mechanism for developers to pay into and discharge their environmental requirements related to planning. Rather than the current system of site-specific mitigation and compensation measures, this would be a 'strategic fund' for priorities identified by new 'Environmental Delivery Plans' (EDPs), which are proposed to be owned by NE and would cover a defined geographic area.

13. **A move away from site-specific mitigation, effectively means that the Planning and Infrastructure (P&I) Bill overrides the need for Habitat Regulation Assessments, European Protected Species Licenses and consideration of Wildlife and Countryside Act species protections**. These provide for site-specific assessments of impact and are designed to minimize or avoid harm to protected plants, fungi and other wildlife and their habitats during development, as part of a 'mitigation hierarchy' of avoiding impacts, then mitigating them, and then compensation as a last resort. For example, the Conservation of Habitats and Species Regulations 2017 require that development impacting protected habitats and species is carefully assessed before proceeding. This may include habitat and protected species surveys, and an Environmental Impact Assessment, and potentially consultations with ecologists, LPAs and organisations like NE to ensure compliance with legal and environmental standards.

[10] UK National Ecosystem Assessment (2011) The UK National Ecosystem Assessment Technical Report. UNEP-WCMC, Cambridge

[11] Natural England (2020) *Climate Change Adaptation Manual Evidence to support nature conservation in a changing climate*. 16. Blanket Bog, 155. Available at: https://publications.naturalengland.org.uk/publication/5679197848862720

[12] This figure includes plantations on ancient woodland sites within the ancient woodland inventory. https://www.gov.uk/government/publications/keepers-of-time-ancient-and-native-woodland-and-trees-policy-in-england/keepers-of-time-ancient-and-native-woodland-and-trees-policy-in-england

14. **Undermining species protections and the existing network of protected sites will affect the Government's ability to meet its legally binding biodiversity targets**, such as Environment Act (2021) targets, and the Kunming Montreal Global Biodiversity Framework targets.

15. Environmental licensing, ecological surveys and consultation processes are not responsible for delays in development. Under-resourced planning authorities, insufficient specialist knowledge, infrastructure bottlenecks, and industry-led viability constraints have been identified as the key blockers to growth in this sector. **Efficiencies could be delivered through improving the existing system**; the recent Bill Impact Assessment states that the solutions for nature and development which the Bill attempts to provide are already possible within the current system, without the need for new legislation.

16. The Government's proposed process effectively bypasses the mitigation hierarchy; once an EDP is 'made' by the Secretary of State, potentially harmful projects can proceed, but without anything in the Bill requiring the developer and NE to have the necessary mitigation in place before the negative impact is permitted to occur. **We recommend that developers are required to avoid and mitigate harm in the first place in line with the mitigation hierarchy and that where harm does take place, compensatory measures should be delivered upfront.**

17. **We recommend that development permission should not be granted, unless in exceptional circumstances, for the following sites**; areas identified as a designated site for nature (SACs, SPAs, SSSIs, Ramsar sites), Local Wildlife Sites, irreplaceable habitats, Local Green Spaces, sites secured for BNG, land covered by conservation covenants, and sites listed in Paragraph 194 of the NPPF, including those secured for ecological compensation *or* priority enhancement areas identified in Local Nature Recovery Strategies' habitat maps.

18. **We recommend that there is no regression to existing environmental protections, such as those afforded by the Habitat Regulations**; there are currently 'tiers' of protection for different features of International, National, and Local importance, with top tiers being subject to very strict tests for development. The new system weakens those protections for top tier features, by proposing one new category of 'environmental features', that is subject to the weak test that the Secretary of State must be satisfied that there is 'overall improvement'.

19. Flowering plants and mosses and liverworts have experienced large declines in the areas they are found since the 1970s (64% and 68%, respectively)[13], with declines driven largely by habitat loss due to land use change[14] such as development, including infrastructure for roads and rail. In England, these changes have disproportionately impacted grasslands that have low soil fertility (and are therefore likely to be species-rich), heathlands, and wetlands. For

[13] https://stateofnature.org.uk/wp-content/uploads/2023/09/TP25999-State-of-Nature-main-report_2023_FULL-DOC-v12.pdf

[14] https://plantatlas2020.org/sites/default/files/bsbi_data/home/BSBI%20Plant%20Atlas%202020%20summary%20report%20Britain%20in%20English%20WEB.pdf

example, Pepper-saxifrage (*Silaum silaus*) lives in species-rich grasslands and **is among the top ten plant species that have decreased most in range in England over recent years**[15].

20. **EDPs owned by a single body – NE - will produce actions that reflect and further compound the existing biases of that organisation.** Inconsistent data availability and ecological surveying mean that less "charismatic" taxonomic groups that are less frequently recorded are being missed out of nature recovery planning and receive less funding, such as plants, lichens, fungi, mosses and liverworts - despite their disproportionate species richness and significance in terms of sustaining food chains.

21. **Whilst there are currently limited protections for rare and threatened plant, fungi and lichen species within the planning system[16], the P&I Bill is posed to undermine these protections.** Many wild plants, fungi and lichens are listed under section 41 of the Natural Environment and Rural Communities Act (2006) and included on the list habitats and species of principal importance for conservation of biodiversity in England. There is a list of protected plants within the Wildlife and Countryside Act 1981 (schedule 8) and the Conservation of Habitats and Species Regulations 2017 (schedule 5), which makes it illegal to undertake certain activities, such as deliberately uprooting or selling them. A developer must apply for a Protected Species Mitigation Licence from Natural England in order to conduct these activities, as they could harm or destroy these rare species.

22. The new approach proposed by the P&I Bill means that a developer could simply pay into the Nature Restoration Fund (NRF) in order for the species licence to be treated as granted and therefore conduct harmful activity or destroy the species populations on the site, even if the application fails the existing 3 legal tests (it must be for a specific purpose; have no satisfactory alternative that will cause less harm to the species; and must not harm the long-term conservation status of the species).

23. **This new approach would be a particular risk to protected plant, fungi, and lichen species that can only grow in a restricted area**, so they could not be restored elsewhere to deliver 'conservation measures' according to the Environmental Delivery Plan (EDP). There are gaps in desk-study species mapping databases, which means that some colonies of protected plant species have not been identified would therefore be more at risk of this approach to granting a licence through payment into the NRF. In these proposals, there is no way to compensate elsewhere for the loss of a locally-significant, severely range restricted species; for example, Marsh gentian *(Gentiana pneumonanthe)* is only known from 3 sites in England, so it would be extremely difficult to compensate elsewhere if populations were lost to development. **We recommend that the Bill establishes a framework for targeting enhancement sites as near as possible to habitats or species that are lost to development, in order to preserve local ecological identity, habitats and species communities.**

[15] Kevin J. Walker, Tom A. Humphrey, Pete A. Stroh (Botanical Society of Britian and Ireland) & Oli L. Pescott (UK Centre for Ecology and Hydrology). England's changing flora A summary of the results of *Plant Atlas 2020*. [Unpublished]

[16] https://www.gov.uk/guidance/protected-plants-fungi-and-lichens-advice-for-making-planning-decisions?form=MG0AV3

24. **The proposals risks compounding the urban/rural divide, as rural land is more expensive than land in built-up areas, there is an economic incentive for developers to build over urban habitats while paying for restoration in the countryside**. This could have serious impacts on local people's physical and mental health given reduced opportunities to access to high-quality nature. Nature recovery work that is designed and planned inclusively at the local level delivers outcomes that are bespoke to the species and habitats present in the area. **The Bill should establish a framework for allocating compensation to impacted communities through local employment, skills training, community facilities and environmental enhancements**.

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