

## **PLANNING AND INFRASTRUCTURE BILL**

### **Supplementary Memorandum from the Ministry of Housing, Communities and Local Government to the Delegated Powers and Regulatory Reform Committee**

#### **INTRODUCTION**

1. This memorandum has been prepared by the Ministry of Housing, Communities and Local Government to assist with its scrutiny of the Planning and Infrastructure Bill (“the Bill”).
2. This memorandum describes the delegated power which would added to the Bill by the amendment tabled by the government on the 6<sup>th</sup> November 2025. It explains both its purpose and why the matter is to be left to delegated legislation rather than included in the Bill, and specifies what parliamentary procedure is provided for the power.

#### **Clause 65 (other requirements for an EDP): power to make regulations about the design of conservation measures**

*Power conferred on: Secretary of State*

*Power exercised by: Regulations*

*Parliamentary Procedure: Negative*

#### **Context and Purpose**

3. This new clause will amend clause 65 to provide that the Secretary of State must make regulations setting out the appropriate prioritisation, by Natural England, of the different ways of addressing any negative effect of development on a protected species or on a protected feature of a protected site.
4. The purpose of this amendment is to require the Secretary of State to prescribe how Natural England should consider this prioritisation when developing, or considering a request to amend, an EDP.

Justification for taking the power

5. The detail as to how the prioritisation should apply is a technical matter, suited to regulations. This will cover both the interpretation of the prioritisation in the context of the NRF, which uses different concepts than would be applied under the existing system, and procedural matters such as timing and levels of detail.

Justification for the procedure

6. The Department considers that the negative procedure would give Parliament the appropriate level of scrutiny for these regulations given that they deal with secondary level of detail as to the interpretation of the prioritisation in the context of the NRF and procedural matters such as timing and levels of detail.

Ministry of Housing, Communities and Local Government

6 November 2025