

Link evidence for EAC inquiry: Environmental sustainability and housing growth

20 December 2024

Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 86 organisations to campaign for nature, climate, animal welfare and a healthy environment for everyone. Wildlife and Countryside Link is a registered charity number 1107460 and a company limited by guarantee registered in England and Wales number 3889519.

For questions or further information please contact:

Emma Clarke, Policy and Advocacy Lead, Wildlife and Countryside Link

E: emma.clarke@wcl.org.uk

Wildlife & Countryside Link, Vox Studios, 1 – 45 Durham Street, Vauxhall, London, SE11 5JH

www.wcl.org.uk

The following organisations support this briefing:

Bat Conservation Trust, Buglife, Chartered Institute for Ecology and Environmental Management (CIEEM), CPRE – The countryside charity, Earthwatch Europe, Froglife, National Forum for Biological Recording (NFBR), Plantlife, People’s Trust for Endangered Species (PTES), The Wildlife Trusts, and the Woodland Trust.

Summary:

1. The current land use and planning system is not sufficient to halt the decline of nature. Biodiversity has continued to fall since the 1970s when regular monitoring began. Development is one of the key drivers of the decline of habitats and species, as reported in the State of Nature report.¹
2. The policies in the Government’s draft NPPF for consultation in September 2024 and new NPPF published December 2024 are not sufficient to depart from the status quo of managed decline. There are some proposals which could impact on the natural environment, if implemented poorly (which we have commented on in detail in the Wildlife and Countryside Link response to the NPPF consultation² and in this evidence submission in response to Question 6). There are no proposals that will increase the protection or restoration of habitats and wildlife, a missed opportunity to bring forward nature-friendly policies. In other words, in our view, the Government proposals as they stand are not adequate for the protection and enhancement of the environment. We hope to see new, more nature-positive proposals come forward from Ministers (see paragraph 5).
3. We recognise that the Government has a strong mandate for affordable housing and clean energy. It also has a legal requirement to halt the decline of wildlife, improve water quality, and effectively protect 30% of England for nature by 2030. The planning system should be a key mechanism for ensuring nature, climate, housing and other land use objectives are met,

¹ <https://stateofnature.org.uk/>

² https://www.wcl.org.uk/docs/Link_NPPF_consultation_response_Sept2024.pdf

and for managing any tension that arises. Currently, however, the planning system is not working well in meeting any of these objectives.

4. To meet the Government's objectives on housebuilding and to tackle the climate and nature crises, the planning system must actively plan for nature's recovery, rather than just minimise harm.
5. Without environmentally-positive reform of the planning system, the Government is highly likely to fail to meet the legally-binding targets set under the Environment Act 2021. Any planning reform intended to increase the scale and pace of sustainable development must be paired with an equally ambitious plan to increase the scale and pace of 'natural infrastructure' restoration and creation. This is currently missing from the Government's new NPPF and wider planning reform proposals. The planning system should:
 - a. **Increase developer contributions for nature recovery and spend them more strategically.** Invest in restoring and managing natural and semi-natural habitats, including protected sites, so that ecosystems are in better condition, climate resilient and well-connected. A significant and well-designed Nature Restoration Fund which channels funds from developers (in combination with public funds and payments from other polluters) to go beyond offsetting to support nature's recovery could make an important contribution to restoring habitats.³ This must be in addition to wider nature recovery action and funding from the Government, including to restore protected sites to good condition and meet Environment Act targets and Environmental Improvement Plan commitments.
 - b. **Allocate space for nature recovery.** Introduce integrated national and local spatial strategic planning, with stronger protection and proactive planning for nature and better environmental information, to optimise use of space on land and ensure development is in the right place. This could be achieved by requiring authorities to contribute to delivery of the Government's habitat protection and creation goals through the NPPF, prioritising the allocation of space for nature in Local Nature Recovery Strategy priority areas. Local Wildlife Sites should receive stronger and more specified policy protection and the list of irreplaceable habitats should be updated so that policy protection applies to an expanded and more accurate list of irreplaceable habitats. The Government should implement the SSSI and SPA Reviews to designate more of the most important sites for habitats and species, to give these areas legal and policy protection from development.
 - c. **Ensure development is green by design.** In addition to following the mitigation hierarchy to avoid harm to habitats and species in the first instance, developments can go further. The Government should mandate nature-friendly development and improve and expand Biodiversity Net Gain (BNG) to boost biodiversity, climate resilience, and the health and wellbeing of communities.⁴
6. This programme must be supported by investment in the planning system and in statutory consultees and advisees in the planning system, to support faster and better planning policy and decision-making. Currently, there is a dearth of capacity within local planning authorities, within statutory consultees such as Natural England and the Environment Agency, and within the Planning Inspectorate. In particular, there is a lack of ecological skills

³ https://www.wcl.org.uk/docs/Nature_Restoration_Fund_Link%20briefing.pdf

⁴ https://www.wcl.org.uk/docs/Fixing_Biodiversity_Net_Gain_September_24.pdf

and capacity within local planning authorities, as only 26% of LPAs reported having access to in-house ecological expertise ahead of the implementation of mandatory Biodiversity Net Gain.⁵ There is evidence that this lack of capacity is delaying planning decisions, in some cases.⁶

Responses to selected questions:

Question 1: What provisions will the National Policy Planning Framework, as revised under the Government's proposals, make for protection and enhancement of the environment? Are these provisions likely to be adequate?

7. There are no proposals to improve protection, enhancement or promotion of biodiversity in the Government's new NPPF.
8. There are several recent NPPF changes which could have a negative impact on biodiversity, by reducing the opportunity for the decision-maker to weigh environmental and other considerations in the planning balance on case-by-case basis. These include:
 - a. Amending the presumption in favour of sustainable development (see our detailed comments below in response to Question 3).
 - b. Giving approval in principle to proposals using brownfield land as a first step towards brownfield passports.
 - c. Policies to support development on previously developed sites in Green Belt land, including a definition of grey belt.
 - d. Policies giving greater blanket support to renewable and low carbon energy.
9. In addition, the Government's changes to move more projects (such as gigafactories, data centres, and onshore wind) into the Nationally Significant Infrastructure Projects (NSIP) regime will significantly change the planning process and routes for environmental and social factors to be considered. While we are supportive of the Government's aims to increase renewable energy generation to achieve net zero and tackle the climate crisis, the Government must ensure the NSIP regime is fit-for-purpose for nature and communities.
10. The Government's commitment to introduce strategic planning through Spatial Development Strategies has the potential to reinforce protections for biodiversity and to enable local planning authorities to more actively plan for nature. More integrated, strategic spatial planning, which includes nature's needs and requires development to consider these, could be very good for nature. However, there was no mention of the inclusion of planning for nature in the NPPF consultation document or questions. We urge the Government to explicitly include the environment as a key consideration in these plans and we look forward to engaging with the Government as they set out further plans for introducing spatial planning.
11. We welcome the NPPF amendment to set minimum access to nature requirements for development on released Green Belt land, as part of the 'golden rules' – but this will only apply to a small subset of development and does not include any biodiversity requirements. There is a welcome reference to measures to benefit species in the NPPF, but this should be

⁵ <https://www.alge.org.uk/wp-content/uploads/sites/15/2022/06/ALGE-ADEPT-Report-on-LPAs-and-BNG-2022.pdf>

⁶ https://www.wcl.org.uk/docs/assets/Letter_to_Chancellor_environmental_planning_expertise_10.09.24.pdf

made a requirement for nature-friendly design, such as appropriately designed and located swift bricks, bat boxes⁷ and green roofs and apply them to all developments.⁸

12. Planning policy is only as good as its implementation – and currently there is clear evidence that local planning authorities are lacking in planning services capacity and ecological expertise.⁹ The Government has committed to funding 300 more planning officers, which we welcome, but the Government should go further to invest in the planning system to ensure the right skills and expertise is in place to enable sustainable place-making. This will require more planning and ecology officers, better training and development and investment in retention of skilled workers.
13. In summary, the Government’s new NPPF and wider planning reforms are not adequate for the protection and enhancement of nature. In the face of the ongoing decline of nature,¹⁰ the Government’s new NPPF and wider planning proposals are certainly not sufficient to achieve its own legally-binding targets to halt and reverse the decline of nature and commitments to protect at least 30% of land and sea by 2030.
14. To ensure the planning system is fit-for-purpose for nature’s recovery, the delivery of clean energy infrastructure needed to meet climate mitigation targets, and the delivery of the Government’s housing commitments, the Government must also introduce an ambitious plan to increase the scale of pace of ‘natural infrastructure’ restoration and creation. This programme must:
 - a. **Increase developer contributions for nature recovery and spend them more strategically.** Invest in restoring and managing natural and semi-natural habitats, including protected sites, so that ecosystems are in better condition, climate resilient and well-connected. A significant and well-designed Nature Restoration Fund which channels funds from developers (in combination with public funds and payments from other polluters) to go beyond offsetting to support nature’s recovery could make an important contribution to restoring habitats.¹¹ This must be in addition to wider nature recovery action and funding from the Government, including to restore protected sites to good condition and meet Environment Act targets and Environmental Improvement Plan commitments.
 - b. **Allocate space for nature recovery.** Introduce integrated national and local spatial strategic planning, with stronger protection and proactive planning for nature and better environmental information, to optimise use of space on land and ensure development is in the right place. This could be achieved by requiring authorities to contribute to delivery of the Government’s habitat protection and creation goals through the NPPF, prioritising the allocation of space for nature in Local Nature Recovery Strategy priority areas. Local Wildlife Sites should receive stronger and more specified policy protection and the list of irreplaceable habitats should be consulted on and updated as soon as possible so that policy protection applies to an

⁷ Note that while ‘swift bricks’ are appropriate for swifts, as well as other species such as house martins, bat boxes are only appropriate for some species of bats and other nature-friendly design measures will be required for particular bat species. While we welcome the new NPPF wording encouraging features that support priority and threatened species, and appreciate that national policy is brief, the wording implies that there is only one species of bat in the UK and should be changed to ‘bat species.’

⁸ https://wcl.org.uk/docs/New_nature-friendly_design_requirements_Link_briefing_Nov2024.pdf

⁹ <https://www.alge.org.uk/wp-content/uploads/sites/15/2022/06/ALGE-ADEPT-Report-on-LPAs-and-BNG-2022.pdf>

¹⁰ <https://stateofnature.org.uk/>

¹¹ https://www.wcl.org.uk/docs/Nature_Restoration_Fund_Link%20briefing.pdf

expanded and more accurate list of irreplaceable habitats. The Government should implement the SSSI and SPA Reviews to designate more of the most important sites for habitats and species to give these areas legal and policy protection from development.

- c. **Ensure development is green by design.** In addition to following the mitigation hierarchy to avoid harm to habitats and species in the first instance, developments can go further. The Government should mandate nature-friendly development¹² and improve and expand Biodiversity Net Gain (BNG) to boost biodiversity, climate resilience, and the health and wellbeing of communities.¹³

Question 2: What policy levers does the Government plan to use to ensure that local authorities deliver the development which the revised NPPF 'standard method' requires? Do the Government's plans result in local planning authorities being penalized if delivery falls short? What policy levers will be available to local authorities to ensure that developments which have received planning approval are delivered in accordance with consents?

15. With respect to ecological enhancements promised as part of developments, from ecological mitigation measures secured through section 106 agreements as part of planning conditions, to promises to plant native trees or install swift bricks, to delivery of Biodiversity Net Gain, the only recourse that local authorities have is through their powers of enforcement.
16. However, there is very little resource and capacity within local authorities to do follow-up monitoring to check if planning conditions have been delivered and to take enforcement action, if needed.
17. In 2022 80% of enforcement officers surveyed by the RTPi reported that there were not enough officers in their team to carry out their workload,¹⁴ a workload which BNG has now significantly increased. The previous Government did provide new funding for local authorities to cover BNG monitoring and enforcement, however this amounted to 0.2 FTE post per authority. Further funding, ranging from 0.33 FTE and 0.66 FTE equivalents, was provided to enable greater ecological expertise.¹⁵ This combined provision is less than half of that identified as the minimum required to deliver BNG effectively by local authority professionals.¹⁶ Even with the proposed further increase in planning officers¹⁷ it will not be enough to allow for the level of monitoring required to check that developers are delivering on BNG promises, especially on-site. It is for this reason that the National Audit Office (NAO), in their 2023 report on BNG, identified compliance and enforcement as one of the main risks to the long-term benefits of statutory BNG.¹⁸
18. Unfortunately, the situation is already dire. A recent report by University of Sheffield researchers commissioned by Wild Justice found that only half of the ecological enhancements promised on residential developments were actually delivered. Many

¹² https://wcl.org.uk/docs/New_nature-friendly_design_requirements_Link_briefing_Nov2024.pdf

¹³ https://www.wcl.org.uk/docs/Fixing_Biodiversity_Net_Gain_September_24.pdf

¹⁴ <https://www.rtpi.org.uk/media/13292/planning-enforcement-resourcing-report-final.pdf>

¹⁵ <https://www.nao.org.uk/wp-content/uploads/2024/05/implementing-statutory-biodiversity-net-gain.pdf>

¹⁶ <https://randd.defra.gov.uk/ProjectDetails?ProjectID=20638&FromSearch=Y&Publisher=1&SearchText=NR0183&SortString=ProjectCode&SortOrder=Asc&Paging=10>

¹⁷ <https://www.gov.uk/government/speeches/chancellor-rachel-reeves-is-taking-immediate-action-to-fix-the-foundations-of-our-economy>

¹⁸ <https://www.nao.org.uk/wp-content/uploads/2024/05/implementing-statutory-biodiversity-net-gain.pdf>

ecological enhancements were not present at all, with 83% and 75% of hedgehog highways and both bat and bird boxes respectively missing entirely.¹⁹

19. This demonstrates the need for resources for monitoring and enforcement within local authorities, to ensure nature promises, including mandatory Biodiversity Net Gain, are actually delivered in new developments.

Question 3: To what extent is the current planning presumption in favour of sustainable development compatible with the environmental objective of the planning system? To what extent will the proposed 'streamlining' of the sustainable development presumption work to deliver developments which will meet this objective and be compatible with the Government's environmental targets and obligations?

20. The current planning presumption in favour of sustainable development tilts the planning balance in favour of (potentially unsustainable) development. The presumption in favour of development does not support the decision-maker to consider the three pillars of sustainable development outlined in the NPPF (economic, social and environmental²⁰) in an integrated and holistic way, because the principle of development is automatically applied and there is a presumption in favour of granting planning permission to the development. The purpose of the planning system should be to deliver climate and nature legislation and targets, alongside housing and infrastructure targets, but this is not reflected in the presumption of favour of sustainable development.
21. The Government's amendment to strengthen the presumption in favour of sustainable development exacerbates this existing issue. Furthermore, a blanket presumption in an area in favour of sustainable development can undermine or restrict case-by-case assessment of environmental impacts of development proposals.
22. We welcome the inclusion of explicit reference to the need to consider locational and design policies while applying the presumption, but there should also be reference to the need to consider environmental and biodiversity policies.
23. In summary, the strengthening of the presumption in favour of sustainable development is not only incompatible with the Government's environmental targets and obligations, it will also make it more challenging for the Government to achieve its non-statutory environmental aims.

Question 4: How will the revised NPPF work to deliver the social and environmental objectives of the planning system? To what extent will it promote outcomes which deliver sustainable social and environmental benefits together, such as access to essential amenities, to public transport and to active travel routes?

24. The Government's new NPPF does not depart from the status quo, which focuses on minimising harm to the environment rather than contributing to the delivery of environmental objectives. In our view, the current planning system (policy and

¹⁹ <https://wildjustice.org.uk/general/lost-nature-report/>

²⁰ https://assets.publishing.service.gov.uk/media/669a25e9a3c2a28abb50d2b4/NPPF_December_2023.pdf, page 5

implementation) facilitates decline of nature, rather than planning actively for nature's recovery and nature integrated into holistic place-making.

25. Some of the NPPF amendments could impact on the natural environment, if implemented poorly (as detailed in the Link NPPF consultation response²¹ and in response to Question 6 in this evidence submission), and none of the NPPF proposals will increase the protection or restoration of habitats and wildlife.
26. We welcome the Government's amendment to set minimum access to nature requirements for development on released Green Belt land, as part of the 'golden rules' – but this will only apply to a small subset of developments. There is a welcome reference to measures to benefit species in the NPPF, but this should be made a requirement for nature-friendly design, such as appropriately designed and located swift bricks and bat boxes²² and green roofs and apply them to all developments.²³
27. Good planning and place-making must be supported by additional planning and ecological capacity and skills within local planning authorities, the majority of which do not have an in-house ecologist or have capacity to consider biodiversity in individual planning applications, let alone dedicate resources to more proactive planning.²⁴

Question 5: What contribution can the NPPF make to meeting Government targets for the reduction of greenhouse gas emissions? What account does the NPPF take of advice from the Climate Change Committee on reducing the use of embodied carbon as well as operational carbon in the built environment?

28. Unless both embodied carbon and operational carbon in the built environment is addressed, as the CCC states, there is a risk of not meeting essential climate mitigation targets.
29. We urge the Government to further address climate change and specifically reducing the use of embodied carbon and operational carbon in the built environment, in the NPPF and as part of the consultation on NDMPs in Spring 2025.
30. The Government should swiftly develop a strategy to ensure all homes and buildings meet ambitious zero carbon standards quickly. A Future Homes and Building Standard, building on existing pilots,²⁵ should be in place for schemes built from 2025 and include whole life assessments for new homes and buildings should be implemented to support the achievement of the current and future carbon budget. The national strategy should also include a plan to retrofit existing homes and buildings is needed, which must include insulation measures, heat pumps, solar and batteries, skills investment, and enforcement of regulation on the retrofitting of privately rented properties. This strategy should ensure all homes and buildings are net zero by 2033.

²¹ https://www.wcl.org.uk/docs/Link_NPPF_consultation_response_Sept2024.pdf

²² Note that while 'swift bricks' are appropriate for swifts, as well as other species such as house martins, bat boxes are only appropriate for some species of bats and other nature-friendly design measures will be required for particular bat species. While we welcome the new NPPF wording encouraging features that support priority and threatened species, and appreciate that national policy is brief, the wording implies that there is only one species of bat in the UK and should be changed to 'bat species.'

²³ https://wcl.org.uk/docs/New_nature-friendly_design_requirements_Link_briefing_Nov2024.pdf

²⁴ <https://www.alge.org.uk/wp-content/uploads/sites/15/2022/06/ALGE-ADEPT-Report-on-LPAs-and-BNG-2022.pdf>

²⁵ [Pilot Version | UK Net Zero Carbon Buildings Standard](#)

31. The NPPF could also play a more positive role in nature-based solutions to climate change. At the moment, the framework makes little provision for protecting carbon-rich habitats or allocating space for the creation or recovery of habitats that can sequester carbon and therefore contribute to targets to reduce greenhouse gas emissions. It should recognise habitats like lowland peat—which store millions of tonnes of carbon and take thousands of years to develop—as irreplaceable habitat so that development does not threaten these important carbon stores. It should encourage authorities to identify opportunities to create a variety of carbon-rich habitats from new wetlands to woodland creation.

Question 6: Will the Government's proposals affect the ability of local authorities to implement policies designed to protect the natural environment in their areas?

32. Yes, a number of the Government's amendments in the new NPPF will negatively impact the ability of local authorities to implement policies designed to protect the natural environment in their areas, including: strengthening the presumption in favour of sustainable development, giving approval in principle to proposals using brownfield land as a first step towards brownfield passports, introducing policies such as grey belt to support the development of previously developed land in the Green Belt, and amending policies to allow renewable and low carbon energy development proposals to go ahead with reduced scrutiny.
33. In our view, the NPPF already gives significant weight to the delivery of housing through the presumption for sustainable development and the brownfield-first approach is already exercised in most local plans. These amendments only shift the balance of the NPPF further away from considering the three pillars of sustainable development (economic, social and environmental) in an integrated and holistic way. Policies such as the presumption in favour of sustainable development and 'acceptability in principle' reduces the opportunity for the decision-maker to weigh environmental and other considerations in the planning balance.
34. This is especially true in a context where local planning authorities are stretched for resources, in particular planning services and ecological expertise. A 2022 ALGE/ADEPT survey commissioned by Defra found that 26% of local planning authorities do not have any access to ecological expertise and that only 5% of respondents reported that their current ecological resource (including in-house and external sources) is adequate to scrutinise all applications that might affect biodiversity.²⁶ This survey was conducted before the introduction of mandatory Biodiversity Net Gain, an important policy, but one only likely to put more strain on already-limited local planning authority and planning ecological capacity.
35. In addition, the Government's amendments to move more projects (such as gigafactories, data centres, and onshore wind) into the Nationally Significant Infrastructure Projects (NSIP) regime will significantly change the tools and routes that local planning authorities have to shape projects and secure environmental improvements in their local area.
36. While we are supportive of the Government's aims to increase renewable energy generation to achieve net zero and contribute to tackling the climate crisis, the Government must ensure the NSIP regime is fit-for-purpose for nature and communities. Early and robust environmental assessment and community engagement is vital for NSIPs, as these projects are outside the plan-led approach and the NSIP regime decides projects on a case-by-case

²⁶ <https://www.alge.org.uk/wp-content/uploads/sites/15/2022/06/ALGE-ADEPT-Report-on-LPAs-and-BNG-2022.pdf>

basis and so does not plan well for a programme of cumulative projects. The Government should:

- a. Strengthen protections for Local Wildlife Sites and irreplaceable habitats, such as ancient woodland and peatland soils, in the relevant National Policy Statement (NPS). Consult as soon as possible on updating the definition of irreplaceable habitats and expanding the list of irreplaceable habitats and ensuring it is consistent across policies.
 - b. Introduce mandatory BNG for all NSIP projects as soon as possible at a higher level than 10%.
 - c. Bolster the stakeholder and community engagement processes.
 - d. Properly resourcing the Planning Inspectorate, local planning authorities, and Statutory Nature Conservation Bodies (SNCBs) to engage with the NSIP process.
37. The Government's proposals for strategic planning, if done well, could support local authorities' ability to implement policies to protect and recover nature in their local area, by supporting cross-boundary join-up, collaboration and integrated land use planning. We look forward to working with the Government as they consult on, develop and test this new strategic planning approach.
38. Proposals for Spatial Development Strategies must embed nature and climate considerations at their heart, alongside economic and social considerations. With limited land in England and a range of differing demands on land, from nature recovery, climate adaptation, housing, food production, water management, transport infrastructure, renewables infrastructure, and recreation, an approach to strategic planning that does not work across land uses will lead to various demands clashing or not being delivered. Local Nature Recovery Strategies (LNRSs) and river basin and Catchment Management Plans should be integrated into the Government's approach to universal coverage of strategic planning.
39. While the Government's 'golden rules' are welcome, in particular the access to nature requirements, they do not include any requirements for biodiversity design or improvements, and only apply to a small subset of development, in released Green Belt land.

Question 7: What (if any) trends are observable in (a) delivery of environmental improvements (b) the purchase and trading of credits arising from the Environment Act requirement for developments to yield biodiversity net gain (BNG)? How are planning authorities using BNG in the planning process to deliver environmental improvements from housing development?

40. In our view, it is too early to conclusively evaluate the full impact of the policy of mandatory Biodiversity Net Gain on environmental improvements and on the biodiversity unit market.
41. Initial indications, however, are that the potential of BNG remains unrealised. The Green Finance Institute's August 2024 report cited early market research from BDP Pitmans that only 0.5% of total planning applications submitted since 12 February 2024 have been subject to BNG. This indicates that there is very little action so far for environmental improvement from development and that the demand for the BNG unit market is very low so far. The GFI

report found that this was due to a number of exemptions for BNG and other routes being relied on to circumvent BNG obligations.²⁷

42. There is a short-term policy evaluation plan from Natural England (2023 – 2025), which will include an evaluation of whether BNG is reducing the negative impacts of development on biodiversity and to what extent it is resulting in more and better-quality nature that is managed and maintained over the long-term.²⁸ However, as recognised in the document, this evaluation will be hampered by the lack of a register of onsite delivery, which is expected to make up a significant portion of BNG delivery.
43. Ahead of mandatory BNG, the Government’s assessment was that BNG was likely to drive less than £200 million in additional investment each year and that most of this investment will be to compensate for harm caused by development, with only a fraction actually contributing to nature recovery targets.²⁹
44. Despite this, only two local authorities have a current local policy for developments to deliver more than a 10% BNG (Guildford and Worthing, as of February 2023).³⁰ The previous Government amended the guidance to make it more challenging for LPAs to set a higher than 10% minimum level of BNG.³¹
45. There is already clear evidence that the current BNG policy will not be sufficient to contribute to nature’s recovery. To ensure that BNG is fit-for-purpose to make a contribution to the improvement of biodiversity across England, the Government should:
 - a. Support local planning authorities in raising their ambitions above the national 10% minimum.
 - b. Consult as soon as possible on applying a higher than 10% mandatory BNG for major infrastructure projects.
46. There are also several improvements to the existing BNG process that, if addressed, could improve the process, and potentially support the market and deliver more environmental improvements, as set out in more detail in this briefing.³² The Government should:
 - a. Review the exemptions from BNG to tighten the de minimis exemption, remove the self and custom build exemption, create an environmental management and restoration projects exemption, and issue new guidance to local authorities to help clarify and provide a more consistent approach to exemptions.
 - b. Publish a consultation on the definition, expanded list which is consistent across policies, and compensation principles for irreplaceable habitats, to help ensure that all such habitats are not included in BNG calculations.
 - c. Reverse the decision by the previous Government to enable the selling of excess units.

²⁷ <https://legacy.greenfinanceinstitute.com/wp-content/uploads/2024/07/GFI-BNG-ROADMAP.pdf>

²⁸ <https://publications.naturalengland.org.uk/publication/6333603580215296>

²⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839610/net-gain-ia.pdf

³⁰ https://www.wcl.org.uk/docs/Biodiversity_Net_Gain_progress_report_7.2.2024.pdf

³¹ <https://www.dcp-online.co.uk/article/1864733/ppg-updated-biodiversity-net-gain-viability#:~:text=The%20BNG%20policy%2C%20introduced%20by,on%20the%2012%20February%202024.>

³² https://www.wcl.org.uk/docs/Fixing_Biodiversity_Net_Gain_September_24.pdf

- d. Improve the monitoring and enforcement of onsite delivery, through requiring onsite gains to be registered on the BNG register and providing guidance and support for local planning authorities to carry out enforcement if BNG is not delivered.

Question 8: How will the revised NPPF operate to promote the Nature Recovery Network and the implementation of local nature recovery strategies by responsible authorities?

47. The revised NPPF does not effectively promote the Nature Recovery Network and the implementation of Local Nature Recovery Strategies (LNRs) by responsible authorities. The consultation document recognises that LNRs are important existing and emerging documents. Currently, however, they do not have a strong enough connection to delivery mechanisms such as Biodiversity Net Gain (BNG) and Environmental Land Management (ELM) schemes and the land use planning system. There are also no proposals in the revised NPPF that would further strengthen the link between planning policy-making and planning decision-making and LNRs.
48. There is a potential link from LNRs to land use planning, in the form of a new duty in the Levelling Up and Regeneration Act for local planning authorities to ‘take account of’ LNRs in local development plans – however, this duty has not yet been commenced.
49. To strengthen the role of LNRs in the land use planning system, the Government should:
 - a. Swiftly commence and strengthen the duty on LPAs to take account of LNRs in local development plans.
 - b. Embed the LNRs local habitat restoration targets into local development plans and require the inclusion of policies to achieve those targets.
50. In the context of the new NPPF, the Government should:
 - a. Ensure LNRs inform new strategic planning mechanisms, such as Spatial Development Plans.
 - b. Ensure areas identified in draft or published LNRs as areas that are of, or could become, of particular importance for biodiversity, are: excluded from the definitions of grey belt, of ‘suitable’ brownfield land; and targeted for environmental enhancement.
 - c. Releases of Green Belt land should be accompanied by improvements to the wider Green Belt, such as the setting aside of further Green Belt land to form habitats and natural green or blue corridors between designated nature sites – this should be in line with LNRs.
 - d. Once areas within the Green Belt have been identified, enhanced and/or created for nature they should be protected from future development. This could be achieved through a new Wildbelt designation – a robust and permanent spatial designation that will protect land in the process of being managed to bring nature back.

Question 9: What use can planning authorities make of the data analysis and modelling being developed under the National Land Data Framework to support planning decisions which lead to better environmental outcomes? How should the NPPF be integrated into the forthcoming Land Use Framework?

51. Access to up-to-date, high quality, and appropriate information for decision-making is vital for good land use planning policy-making and decision-making. In particular, the National Land Data Programme identified that having a shared, spatially-explicit evidence base across different land uses is essential to better and more integrated land use planning. The resulting policy paper identified several useful recommendations to improve national spatial land use data which we support, including: establishing a shared spatial evidence base across departments and strengthening connections between evidence and policy.³³
52. This data should be used to support the development of national planning policy, including the NPPF and National Policy Statements and their SEAs, Local Nature Recovery Strategies, and local development plans and decision-making.
53. In addition, in our view, making that evidence base accessible and ensuring the evidence is actually used will require:
 - a. A national environmental data platform, Environmental information collected for all development projects should be added to this national data platform, including information from projects that do not receive planning consent. Existing government-held data and resources, including Defra’s Magic Map (containing spatial data on habitats, species and landscapes), could provide a solid foundation for this data platform to grow. It would also signpost to other useful data sources, such as the species data platform run by the National Biodiversity Network Trust (NBN Atlas), data from Local Environmental Record Centres, the Ancient Woodland Inventory and the Ancient Tree Inventory, and information collected by Local Nature Partnerships and Local Nature Recovery Strategies. The establishment of this new information portal, which could be titled the ‘National Environmental Observatory,’ will require start-up and maintenance funding, to integrate different data sets, support the providers of these existing data sets, provide quality assurance, ensure suitable curation and allow all interested parties to access and practically use the data.
 - b. More resources, including ecological resources, within local planning authorities. Use and application of data to inform decision-making requires expertise and capacity from people well-placed within planning authorities and other key policy-makers and decision-makers.
54. Systems designed to protect nature can only work well and swiftly if there are sufficient people and expertise in place to implement, monitor, and enforce them. Over the past decade, both local authorities and the environmental statutory consultees have faced huge resourcing challenges due to funding decisions made by successive Governments. A 2022 ALGE/ADEPT survey commissioned by Defra found that 26% of local planning authorities do not have any access to ecological expertise and that only 5% of respondents reported that their current ecological resource (including in-house and external sources) is adequate to

³³ <https://www.gov.uk/government/publications/finding-common-ground-integrating-data-science-and-innovation-for-better-use-of-land/finding-common-ground-integrating-data-science-and-innovation-for-better-use-of-land#section-3-key-findings-and-recommendations>

scrutinise all applications that might affect biodiversity.³⁴ This survey was conducted before the introduction of mandatory Biodiversity Net Gain, an important policy, but one only likely to put more strain on already-limited local planning authority and planning ecological capacity. The Office for Environmental Protection's 2023 report on environmental assessment highlighted resourcing issues as a key reason why the current system of assessment is not functioning effectively.³⁵ Resources for enforcement are also essential. A recent report by University of Sheffield researchers commissioned by Wild Justice found that only half of the ecological enhancements promised on residential developments were actually delivered. Many ecological enhancements were not present at all, with 83% and 75% of hedgehog highways and both bat and bird boxes respectively missing entirely.³⁶

55. This integrated, spatially-explicit and shared national evidence base should also inform a national Land Use Framework, on which the Government has committed to publishing a consultation in early 2025. In our view, this framework should be overarching, England-wide spatial document which identifies where and how different land uses can be aligned to maximize co-benefits and ensure that national environmental targets, and other national targets with land use needs or implications, are met. To be effective, the Land Use Framework must also be target and outcome-driven (for example, having the achievement of net zero by 2050 and the pledge to protect at least 30% of land for nature at its heart), backed by strong implementation including through planning policies, planning decisions, and consenting and spending decisions, and be transparent and adaptable for delivery.
56. Strategic spatial planning should go beyond the Land Use Framework and spatial approaches to strategic energy planning. Both documents, alongside other strategic approaches such as river basin and catchment planning, should be brought together to produce a National Spatial Plan, a single coherent framework for land use and placemaking, giving clarity and confidence to everyone involved in the planning system. This National Spatial Plan should be target driven, backed by strong implementation duties and adaptable, as set out above.
57. We also welcome the proposed introduction of universal coverage of strategic planning, however this approach must include environmental considerations and must include environmental expertise in their development. With limited land in England and a range of differing demands on land, from nature recovery, climate adaptation, housing, food production, water management, transport infrastructure, renewables infrastructure, and recreation, an approach to strategic planning that does not work across land uses will lead to various demands clashing or not being delivered. We look forward to working with the Government as they consult on, develop and test this new strategic planning approach. There are other existing and emerging plans, such as Local Nature Recovery Strategies (LNRSs) and river basin and Catchment Management Plans, and other proposed mechanisms, such as the Land Use Framework, Strategic Spatial Energy Plan (SSEP) and other strategic spatial plans for infrastructure, which should be integrated into the Government's approach to universal coverage of strategic planning.
58. Strong implementation is key. The National Planning Policy Framework (NPPF), National Development Management Plans (NDMPs) and National Policy Statements (NPS) should all recognise the Land Use Framework, as should local planning policy and decision-making. Having set a national framework through the National Spatial Plan, the NPPF, NDMPs and

³⁴ <https://www.alge.org.uk/wp-content/uploads/sites/15/2022/06/ALGE-ADEPT-Report-on-LPAs-and-BNG-2022.pdf>

³⁵ <https://www.theoep.org.uk/report/environmental-assessments-are-not-effective-they-should-be-due-practical-barriers>

³⁶ <https://wildjustice.org.uk/general/lost-nature-report/>

practice guidance should all enable fine tuning to be done at the local level through local plans and development management, informed by Local Nature Recovery Strategies and by other documents, such as local biodiversity action plans and local energy & climate action plans.

59. To help with this, the duty created by the Levelling Up & Regeneration Act for local authorities to take Local Nature Recovery Strategies into account in local plans should be strengthened to a more robust requirement for local plans to 'further the objectives' of Local Nature Recovery Strategies. This will ensure these critical local blueprints for nature recovery have sufficient planning weight to make a difference on the ground.

Question 10: What environmental regulatory arrangements within Defra's remit which relate to the planning process are likely to be under review as potential inhibitors of growth? What effect on environmental protections would reform of these regulations be likely to have?

60. There are a number of vital environmental regulations within Defra's remit that provide protections for habitats, wildlife, freshwater, seas, air, soils, and environmental and people's health. Many of these do or could interact with the planning and development regime, including site protection rules for Sites of Special Scientific Interest (SSSIs) under the Wildlife and Countryside Act 1981, protected species under the Wildlife and Countryside Act 1981, and the Water Framework Directive which aim to enhance and protect freshwater and groundwater.
61. However, the regulations that are most likely to be under review as perceived inhibitors of growth, and therefore those that this evidence submission will focus on are: the Habitats Regulations, which protect a select number of species, the most rare and vulnerable sites, including through 'nutrient neutrality' rules, and other environmental assessment regulations, Environmental Impact Assessment (EIA) and Strategic Environment Assessment (SEA), under the Town and Country Planning Regulations 2017 and the Environmental Assessment of Plans and Programmes Regulations 2004 respectively.
62. These regulations have been under review time after time in past decades and have repeatedly been found fit-for-purpose. They facilitate, not inhibit, appropriate and sustainable development. However, the reviews have concluded that the implementation of these rules could be improved to support the effective application of these regulations.
 - a. Defra's own review in 2012³⁷ (as well as the two previous reviews) found the Habitats Regulations were fit-for-purpose. The review concluded that 'in the large majority of cases the implementation of the Directives is working well, allowing both development of key infrastructure and ensuring that a high level of environmental protection is maintained.' Where costs and delays for developers do arise, the review points to these issues as stemming from implementation.
 - b. The importance of the Habitats Regulations for certainty and consistency for the private sector was recognised by the Defra 2012 report. These findings were echoed by The Red Tape Initiative report in 2018,³⁸ which highlighted the importance of

³⁷ <https://www.gov.uk/government/publications/report-of-the-habitats-and-wild-birds-directives-implementation-review>

³⁸ <https://www.biodiversityinplanning.org/wp-content/uploads/2018/12/RTI-November-2018-Report-FINAL.pdf>

these regulations for business and the need to improve implementation of these regulations.³⁹

- c. The EIA and SEA regimes, as well as the Habitats Regulations Assessment (HRA) process under the Habitats Regulations, were also found fit-for-purpose in a recent report from the Office for Environmental Protection (OEP). The OEP concluded that existing environmental assessment regimes in England are not functioning as well as they should to support planning decision-makers to contribute to sustainable development, but that the root causes arise not from the legislation itself but from shortcomings in the wider planning system that affect the way the legislation is implemented.⁴⁰
63. If the Habitats Regulations were to be revoked or key aspects repealed or significantly reformed, the UK's most effective legal protections for important habitats and species, and the legal framework, including the assessment of impacts on protected sites requirements could be lost. If EIA or SEA regulations were reformed, it could result in the loss of key information-gathering tools on the potential impacts of plans, programmes, and projects on species, habitats, landscape character and cultural heritage to inform good decision-making. In addition, reform to these rules that do not address the underlying implementation issues are 'unlikely to deliver Government's ambitions and may create new problems, for example to legal uncertainty.'⁴¹
 64. Also, the loss of some aspects of the Habitats Regulations and the EIA and SEA regulations, such as the precautionary principle in the HRA assessment, would be wholly contrary to the 'no reduction in protections' requirement in the Environment Act.
 65. The loss of the legal status of important nature sites and the loss or weakening of the protections for and requirements to improve these sites would undermine the Government's legally binding domestic targets, including the target to halt the decline of species abundance by 2030, and domestic and international environmental commitments, such as the ambitions in the Environmental Improvement Plan and the 30x30 pledge. It would also put compliance with international environmental law and treaties at risk, including the Ramsar Convention on wetlands, the Bern Convention covering species and habitats and the OSPAR convention on the northeast Atlantic marine environment.
 66. On land, 79% of the SSSI network currently has greater protection by also being designated as an Special Area of Conservation (SAC) or Special Protection Area (SPA). Removing or significantly reforming SAC/SPA status in a way that leaves site protections reliant on only SSSI notifications would be weaker. There is no requirement to drive the improvement of nature within SSSIs or maintain the integrity of the UK protected site network, as there is with SACs and SPAs. SACs and SPAs (and Ramsar sites by a matter of policy) enjoy a stronger level of legal protection through the Habitats Regulations that ensures these sites are protected from the risk of significant harm, except in cases of imperative and overriding public interest, and only then if no less damaging alternatives are possible and proper compensation is in place. By contrast, SSSIs are afforded legal protection through the Wildlife and Countryside Act 1981, which does not clearly cover offsite or cumulative impacts and

³⁹ <https://www.ft.com/content/f688bdd6-cbea-4fed-b2a6-f0946bb43f96>

⁴⁰ <https://www.theoep.org.uk/report/environmental-assessments-are-not-effective-they-should-be-due-practical-barriers>

⁴¹ <https://www.theoep.org.uk/report/environmental-assessments-are-not-effective-they-should-be-due-practical-barriers>

which still allows development which is likely to have an adverse effect on a SSSI to proceed if the development's benefits are considered to outweigh the adverse effects on the SSSI.

67. At sea, protection for the vast majority of protected sites would also be weakened, or the breadth of protections for protected sites diminished, by the removal of the underpinning SAC or SPA designation. In some cases, where marine SAC and SPA sites are not underpinned by another designation, protections would be removed entirely.
 - a. Of the marine protected areas in England, 75 sites which are designated as both an SAC or SPA and SSSI would be downgraded in protection if the SAC/SPA designation were lost.⁴² For another six marine sites which are designated as both an SAC or SPA and as a Marine Conservation Zone (MCZ), the removal of the SAC or SPA designation would result in the breadth of protection for these sites being diminished, as fewer different designations means fewer species and features are protected.
 - b. Eight marine protected areas in England are only designated as an SAC or SPA (with no overlapping SSSI or MCZ designation), meaning that protection and designation for these sites would be lost entirely if the Habitats Regulations were to be repealed.
68. Species listed for strict protection under the Habitats Regulations are also afforded a higher level of protection compared with other wildlife laws. Favourable Conservation Status (FCS) is an important legal concept in the regulations, as well as the goal of protection and management measures for species and sites. The loss of protections for listed rare and vulnerable species and all bird species (including the prohibition of disturbance to habitats, the legal requirement for compensation when habitat loss does occur in the absence of less damaging alternatives and if Imperative Reasons of Overriding Public Interest (IROPI) is established, and strict licensing requirements), would lead to further declines in wildlife populations in the UK. Species protected include hazel dormice, harbour porpoise, all UK bat species, otter, kingfisher, common scoter, shore dock (*Rumex rupestris*) and Killarney fern (*Trichomanes speciosum*).
69. The HRA framework includes the ability to identify less damaging solutions and to drive strategic solutions to reduce pressure on environmental limits. For example, more strategic approaches to compensation are starting to be developed for the marine environment.
70. The Regulation 9 duty for relevant authorities to establish conservation measures, including to avoid deterioration of nature sites and to avoid disturbance and harm to listed species, is another essential part of the regulations.
71. The evidence is clear that the Habitats Regulations are the most effective UK nature conservation laws and boost habitats and species.
 - a. A recent British Trust for Ornithology (BTO) study found that study sites with a greater proportion of protected land are home to higher numbers and more species of birds.⁴³ The regulations also boost biodiversity outside protected sites: another study found that numbers of threatened birds are higher both within a 5km buffer zone around a protected area as well as in the area itself.⁴⁴

⁴² Analysis of the marine protected sites network was done by the Marine Conservation Society in 2023, with special thanks to Frith Dunkley at MCS.

⁴³ <https://www.nature.com/articles/s41559-022-01927-4>

⁴⁴ <https://zslpublications.onlinelibrary.wiley.com/doi/10.1111/acv.12832>

- b. At a macro level, the regulations also have a positive impact on the recovery of species populations across countries. Researchers have found that bird species strictly protected by the Habitats Regulations fared significantly better than species that were not listed. These species have done better in those countries where the Birds Directive (from which the Habitats Regulations in the UK partly derives) has been implemented for longer.⁴⁵
 - c. Some European bat populations are showing slow signs of recovery following significant historic declines, which researchers suggest reflects the impact of conservation legislation and species and site protections such as the Habitats Directives (EU), from which the UK Habitats Regulations derive.⁴⁶
72. Reform of these regulations would also have several practical implications which could have knock-on effects on environmental protection.
- a. There would be costs to businesses and developers due to the changes in the regulatory regime and the loss of case law (there is a high likelihood that new laws will have to be challenged through the courts and the process of rebuilding the library of case law will take years) and the resulting uncertainty.
 - b. As the Habitats Regulations are referenced and underpin various other pieces of domestic legislation and policy, any loss of requirements or significant changes would have even further impacts.
 - c. There would be significant burden on civil servants and policymakers to review legislation and ensure there are no legislative or regulatory gaps. This burden would be particularly felt by resource-stretched local authorities, which would have to revisit local development plans within which the Habitats Regulations are embedded.
 - d. Finally, there would also be significant cross-border issues in removing or significantly reforming a regime that currently operates across the UK, as the environment is within the competency of the devolved administrations. Changes within England may not be made in, for example, Scotland too. Such divergence would have implications for businesses and developers who operate in or across different countries. For example, the North South interconnector project operates across the Republic of Ireland and Northern Ireland,⁴⁷ and in the marine environment, for example, the Severn Estuary includes both Welsh and English waters.⁴⁸
 - e. Taken as a whole, these uncertainties could very significantly delay development progress.
73. The Government was right to identify that the existing nature protections are not yet sufficient to restore nature, but wrong to suggest that reforming the Habitats Regulations in a way that would reduce protections is the best way to solve the problem. While the implementation of the Regulations could be improved to work better for nature and those involved in the system, the Habitats Regulations are effective and the legislation is fit-for-

⁴⁵ <https://conbio.onlinelibrary.wiley.com/doi/full/10.1111/conl.12196>

⁴⁶ <https://www.eea.europa.eu/highlights/bat-population-recovering>

⁴⁷ https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2018/2018-12-18_spotlight-a-comparison-of-the-planning-systems-in-ireland-and-northern-ireland_en.pdf

⁴⁸ <https://severnpartnership.org.uk/the-estuary/managing-the-estuary/marine-planning/>

purpose, as suggested by Defra's own review in 2012. The Habitats Regulations should be retained, strengthened and better implemented to improve their effectiveness for nature, people, and those interacting with the regulatory regime.

74. There is strong evidence that the regulations are not being well implemented.
- a. For example, the recommendations in the recent reviews of SPAs in order to protect and maintain wild birds populations have not been implemented by Defra and Natural England – this lack of action and poor implementation of the regulations is now being investigated by the OEP.⁴⁹
 - b. The Government should publish and implement the recommendations from the UK SPA Review in 2016 and the recommendations from the previous 2011 review, to help plug the critical gaps in England's protected sites network for vulnerable species.
 - c. Another example is that species protected by the Habitats Regulations, while required to be considered in planning applications, are often overlooked by local planning authorities. A Bat Conservation Trust study from 2014 which fed into a CIEEM and ALGE Advice Note on Permitted Development Rights (PDRs) and European Protected Species (EPS) found that approximately half of local planning authorities did not know that EPS legislation had to be taken into account as part of the PDR process.⁵⁰ There are many examples of LPAs overlooking bats in their decision-making processes.⁵¹
75. The underlying issues that must be addressed to improve the effective implementation of the Habitats Regulations, EIA, and SEA are: access to the right environmental information at the right time and access to the necessary expertise.⁵² For example, lack of monitoring of protected sites prevents understanding of the efficacy of the regulations.⁵³
76. There are also other opportunities to improve the regulations. To improve implementation of the regulations in a way that preserves their rigour whilst allowing known and trusted rules to be effectively applied to enable swift development progress, we recommend:
- a. Increased funding and ecological expertise is urgently needed for all permission-granting competent authorities (e.g., Local Planning Authorities) and statutory nature conservation bodies in order to properly and confidently review and conclude environmental assessments and decisions. The Regulation 9 duty for relevant authorities to establish conservation measures to avoid deterioration of nature sites and to avoid disturbance to listed species must be fully funded and supported.
 - b. The Government should improve implementation and enforcement of existing specific thresholds for risks of environmental harm that must not be exceeded in or around a protected site, such as levels of nutrient pollution on land, as a result of new developments (e.g., Water Framework Directive thresholds). In some cases, due to the amount of additional infrastructure needed to reach climate targets, thresholds may need to be raised or additions made. For example, noise thresholds in the Southern North Sea SAC will be breached this summer unless a decibel limit

⁴⁹ <https://www.theoep.org.uk/news/oep-launches-investigations-special-protection-areas-wild-birds>

⁵⁰ https://cieem.net/wpcontent/uploads/2019/02/PD_ADVICE_NOTE_March_2017.pdf

⁵¹ https://wcl.org.uk/docs/2024/WCL_Wildlife_Crime_2023_Final.pdf

⁵² <https://www.theoep.org.uk/report/environmental-assessments-are-not-effective-they-should-be-due-practical-barriers>

⁵³ <https://publications.parliament.uk/pa/ld5803/ldselect/ldenvcl/234/23406.htm>

for turbine piling is put in place. This would help to limit the number of inappropriate proposals that come forward and help reduce the need for costly assessment of plans that are clearly damaging.

- c. The mitigation hierarchy should be reinforced in law to support its early consideration and the highest standard of implementation to ensure nature's recovery. Currently the mitigation hierarchy is present in guidance on appropriate assessment and in policy in the National Planning Policy Framework (NPPF) and the National Policy Statements for Renewable Energy EN-3, but it should be strengthened by being made a legal requirement. Avoidance is the first step of the mitigation hierarchy and its importance should be reinforced throughout guidance, directions and national policy.
- d. Improving the effectiveness and monitoring of mitigation options, including for species protected under the Habitats Regulations and for HRA, by analysing existing data to assess the effectiveness of previous mitigation measures, and where there is no data, supporting essential research to determine which mitigation measures are appropriate. Monitoring of mitigation measures should be carried out to ensure they are implemented as designed and maintained, supported by sufficient resources, and having the intended effect.
- e. The quality, availability and comparability of environmental data, including up to date monitoring on the condition of protected sites, necessary to underpin good decision-making, should be improved. Data collected through the environmental assessment process and through licenses issued to ecological consultants under the Habitats Regulations should be shared and made available and usable for other purposes in accordance with the FAIR data principles to improve the existing environmental evidence base, which can then be mobilised for future environment assessments, cumulative assessments, and inform best practice. There is a need for common environmental data standards, and a single platform with easy access for all sectors to Government-held environmental and ecological data, such as a National Environmental Observatory. Existing government-held data and resources, including Defra's Magic Map (containing spatial data on habitats, species and landscapes), could provide a solid foundation for this data platform to grow. It would also signpost to other useful data sources, such as the species data platform run by the National Biodiversity Network Trust (NBN Atlas), data from Local Environmental Record Centres and information collected by Local Nature Partnerships and Local Nature Recovery Strategies. A cross-government data sharing platform for environmental assessments in which all applicants must place data collected post-consent was also recommended by the National Infrastructure Commission.

77. In addition, we have identified ways to improve the application of the Habitats Regulations in relation to two particular circumstances, nutrient neutrality rules and strategic mitigation approaches.

- a. The new Government has committed to finding a way to meet nutrient neutrality rules in order to allow the building of homes in nutrient-affected areas, without weakening environmental protections. A solution is already in place in many parts of the country: strategic mitigation schemes. These schemes reduce nutrient pollution across catchments, creating headroom to absorb the impacts of development. The Government should accelerate and extend these schemes by: allowing temporary

measures, establishing a national nutrient taskforce to work with local partners to deliver strategic mitigation in nutrient-affected catchments, and offering all nutrient-affected developers the chance to make a one-off, sizeable 'strategic mitigation contribution' at the point of planning consent.⁵⁴

- b. The Government is considering a 'Nature Restoration Fund' as a way for developers to more effectively deliver their legal environmental mitigation requirements in some cases, where strategic approaches are ecologically effective.. While a poorly designed approach could increase the risk of environmentally-damaging development, a well-designed and ambitious strategic fund has the potential to increase the scale of nature action while speeding up planning and development. The fund must go significantly beyond offsetting to support nature's recovery, be primed with public funding with further funding from developers, and must deliver strategic nature recovery priorities as identified in Protected Site Strategies and LNRSs.⁵⁵ This must be in addition to wider nature recovery action and funding from the Government, including to restore protected sites to good condition and meet Environment Act targets and Environmental Improvement Plan commitments.

78. We suggest adding a presumption in favour of sustainable development activity that will deliver genuine sustainable nature-based solutions. The only projects benefiting from this process should be those with a primary aim to protect and restore habitat, with any built footprint being confined to temporary or permanent structures to enable this restoration (for example, the restoration of a wetland or the construction of natural flood defences or the construction of fish passes, with new walkways and a small building for storing maintenance materials). This presumption could be accompanied by an accelerated consent process, whereby additional resources are deployed to allow for assessment processes to be completed in full, but at a faster pace than normal. Environmental assessment and the mitigation hierarchy should still be applied by experts to these fast-tracked projects, to ensure that impacts on species and landscapes have been avoided, mitigated for or, as a last resort, compensated for. Nature-based solutions benefiting from this process should also be informed by and align with the Local Nature Recovery Strategy and any local Biodiversity Action Plan.

⁵⁴ https://www.wcl.org.uk/docs/Accelerating_the_nutrient_neutrality_solution.pdf

⁵⁵ https://www.wcl.org.uk/docs/Nature_Restoration_Fund_Link%20briefing.pdf