Planning Reform Working Paper: Streamlining Infrastructure Planning: Link response

26 February 2025

This response is on behalf of environmental coalition Wildlife and Countryside Link (Link).

Introduction:

Wildlife and Countryside Link (Link) welcomes the opportunity to respond to the Government's "Planning Reform Working Paper: Streamlining Infrastructure Planning." As England's largest coalition of environmental and wildlife organisations, we are committed to ensuring that infrastructure development aligns with the protection and enhancement of our natural environment.

We welcome the Government's emphasis on securing a more strategic, greener and resilient approach to infrastructure, and the planned alignment with the Government's environmental objectives, including decarbonisation.

It is essential that the Government stops treating nature as an impediment to planning, both rhetorically and in policy. The Government should actively plan for nature recovery through the planning process, working with communities and scientists to allocate space on land and at sea for the recovery and creation of natural infrastructure. Any planning reform that does not go hand-in-hand with an ambitious and well-funded prospectus for large-scale restoration of nature will fail in its objectives to secure national resilience and greener development, in line with our national legal environmental targets.

Ensuring infrastructure projects protect and enhances natural capital is essential for sustaining vital ecosystem services, mitigating climate risks, and supporting biodiversity, all of which are critical to meeting Government commitments on nature recovery and long-term environmental sustainability. To succeed, reform intended to increase the scale and pace of low-carbon infrastructure development must be paired with an equally ambitious plan to increase the scale and pace of “natural infrastructure” restoration and creation. Only once the restoration of natural infrastructure is on an equal footing with built infrastructure will it be possible for the system to achieve its full potential.

Proposals as they currently stand place a significant emphasis on accelerating infrastructure decision making. A focus on speed must not compromise progress towards the Government's environmental objectives, including its legal obligations under the Environment Act 2021, or undermine the ability of the public and wider stakeholders to effectively engage in the NSIP process. Recent court decisions which have overturned Development Consent Orders have highlighted flaws in the decision-making process. Solutions to these issues must not simply focus on expediting the process itself, but ensure the right safeguards and mechanisms are embedded to ensure decisions consistently align with the Government's environmental commitments.

Whilst we agree with the need to drive progress towards net zero, for the NSIP regime to truly achieve sustainable development, it must ensure the system supports considered, robust, evidence-based decision-making; that in turn supports the vital, strategic priority of national nature recovery through nature-positive development. Only a system which delivers this will be fit for the nature and climate emergency we face.

In addition to our responses to the consultation questions below, which are focused on operational reforms, the following reforms are needed to ensure the National Significant Infrastructure Projects (NSIP) regime as a whole is fit-for-purpose. In summary, we recommend that any successful streamlining is conditional on: (1) providing more environmental certainty, including clear tests to ensure infrastructure is compatible with achieving our statutory targets, and does not harm irreplaceable habitats (2) better information, access to data and investing in agency capacity, and (3) stronger compensation requirements that include delivering clear net gains for nature overall, rather than just offsetting impacts.

- Updated and ambitious National Policy Statements must provide a robust policy framework that will help to ensure positive outcomes for nature and the climate. In particular, all relevant NPSs should include clear tests to guide whether a development is likely to be compatible with meeting statutory targets under the Environment Act 2021 and the Climate Change Act 2008 to strengthen environmental integrity at the same time as reducing uncertainty for developers. "Reflective amendments" must not be allowed to undermine protections for nature.
- Any reforms should guarantee that legal protections for nature are upheld, preventing any erosion of existing environmental laws, with a particular emphasis on preserving the integrity of statutory sites. Plans must reflect the role of strategic planning in applying and enforcing the mitigation hierarchy, ensuring that biodiversity impacts are avoided, minimized, and, when necessary, fully compensated for as a last resort.

- Spatial plans and national plans/strategies for infrastructure must steer projects towards the right locations and resolve strategic questions of need and prioritisation of schemes.
- The development of a robust and ambitious national land use framework for England and a marine spatial prioritisation plan to deliver in line with our national and international environmental commitments, including 30 by 30 and Good Environmental Status. 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.
- Business and commercial developments that do not serve a critical national infrastructure purpose, such as the previously proposed London Resort, are not genuinely nationally significant infrastructure and should not be determined through the NSIP process.
- The Biodiversity Net Gain statement to be incorporated into the National Policy Statements must be consulted on then published. Given the significant scale and duration of NSIPs, the ambition for biodiversity net gain should be at least 20%; the metric must be demonstrated to be fit for purpose to assess large-scale projects; biodiversity gain must be maintained in perpetuity; it must be additional to the mitigation hierarchy and not conflated with compensation measures; it must exclude irreplaceable habitats; there must be long-term post-implementation monitoring, and there must be no exemptions for any class of NSIPs. Marine Net Gain should also be implemented by the end of 2025 to ensure offshore energy infrastructure and other marine developments contribute to nature recovery.
- Any streamlining of the NSIP process would benefit from increased certainty about the protection of irreplaceable habitats. Currently, the rules leave too much leeway for damaging interpretation by developers, causing environmental damage and delay.
    - The Government must publish a public consultation on the current interim list of Irreplaceable Habitats, and include priority habitat grasslands, in order to ensure sufficient protections are in place for the most important and vulnerable habitats.
    - The Government must strengthen protection for ancient woodland, ancient trees, and other irreplaceable habitats – including reflecting Natural England's work on marine irreplaceable habitats – in National Policy Statements (and the National Planning Policy Framework) to close loopholes, such that NISPs do not automatically override policy protections.

- The quality, availability and use of environmental data must be improved. For example, the ancient woodland inventory produced by Natural England is currently incomplete. Although it is in the process of being reviewed, funding has not yet been made available for its full completion.
- Planning reforms should set national standards for environmental data and create a shared data platform, accessible to all stakeholders. This was a recommendation both of the 2023 OEP environmental assessment report and of the 2023 National Infrastructure Commission's report on achieving net zero.[1] 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),[2] 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. The establishment of this new information portal, which could be titled the 'National Environmental Observatory', would 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. Developers should be required to provide data in a consistent manner across England, to allow for easier integration.
- Funding and capacity constraints within the system, including ecological expertise must be urgently addressed. The effective functioning of a more streamlined system urgently requires investment in the associated agencies and bodies ecological expertise and capacity, including in PINS, in order to enable them to make effective and robust contributions and fulfil their statutory functions, whilst avoiding holding up NSIP examinations.[3] We recommend the Spending Review allocates additional funding to support planning functions and environmental expertise in key bodies such as Natural England, the Environment Agency, JNCC, Historic England, and Local Planning Authorities, including National Park Planning Authorities and the Marine Management Organisation (MMO). Regional 'Centres of Excellence' should also be established to share planning and environmental expertise for high-priority applications, with a focus on regions expecting significant housebuilding and renewable energy projects. This should involve collaboration with Skills England to

[1] https://nic.org.uk/studies-reports/national-infrastructure-assessment/
[2] https://magic.defra.gov.uk/MagicMap.aspx
[3] https://www.wcl.org.uk/docs/Letter_to_Chancellor_environmental_planning_expertise_10.09.24.pdf

prioritise apprenticeship, secondment, and training opportunities, while raising the profile of the planning profession to attract and retain talent for a sustainable workforce.

In addition, Link and our members would like to express concerns about the consultation process. The imposition of short deadlines at a late stage is unhelpful, and it would have been far more beneficial to establish a deadline from the outset, allowing stakeholders adequate time for proper planning. This issue is particularly critical given the high volume of related policy activity, which may prevent some stakeholders from providing meaningful input. We are also keen to ensure that MHCLG is not using the working paper process to avoid scrutiny. While we appreciate improvements in stakeholder engagement earlier in the Government's thinking, consultations should offer a robust framework for meaningful engagement, allowing the Government to reflect on and respond to feedback appropriately. The approach of imposing last-minute, short-term, and poorly publicised deadlines is counterproductive and raises concerns that the working paper process may be used to circumvent proper consultation.

a. Would the package of measures being proposed in this paper support a more streamlined and modernised process? Are there any risks with this package taken as a whole or further legislative measures the government should consider?

While we acknowledge the need for a more efficient infrastructure planning process, it is crucial that streamlining measures do not compromise environmental standards or public engagement. The primary risk of the proposed package is the potential weakening of environmental protections in the pursuit of expedited development. This in turn risks hindering progress towards our legal, national nature recovery targets and international obligations and the enhancement of natural capital. We recommend that any legislative changes must include robust safeguards to maintain biodiversity and habitat conservation.

Within the objective of delivering 'greener' development and nature recovery alongside streamlining the process, the working paper refers to the Government's aims to take "*a more strategic, outcomes focused approach as outlined in the separate working paper development and nature recovery*". Link has provided a detailed response to this working paper.[4] In addition to the specifics outlined below, we wish to emphasize that the plans presented in the Development and Nature Recovery working paper are insufficient on their own to fully address concerns surrounding the sustainability of the current national infrastructure regime.

[4] Link_response_Nature_Restoration_Fund_working_paper_Feb2025.pdf

Additional interventions and policy changes are needed to ensure that any more streamlined system supports delivery of the Government's environmental goals.

While acknowledging the potential benefits of a strategic approach to nature recovery, we emphasise that any changes to existing environmental legislation must not compromise the integrity of protections afforded by the Habitats Regulations, Wildlife and Countryside Act and associated laws. The Nature Restoration Fund (NRF) should not undermine the mitigation hierarchy, which prioritises the avoidance of harm to habitats and species, nor do away with site-level assessments. The best and simplest way to protect the natural environment is to avoid damage in the first place, avoid the need for expensive and complicated mitigation and compensation packages. All possibilities to deliver the proposed approach without changing the Habitats Regulations should be thoroughly explored before actual amendments are made. Any legislative amendments to the Habitats Regulations and Wildlife and Countryside Act should be minimal, ensuring that any modifications retain or enhance current levels of environmental protection.

Furthermore, there must be clarity on the scope of the NRF, as it is not suitable for all developer obligations, particularly concerning certain protected species. This equally applies to the Marine Recovery Fund (MRF), although this currently only covers compensation or no net-loss and from one industry. To ensure the effectiveness of the NRF and MRF, we recommend implementing robust assessment, monitoring, and enforcement provisions, as well as exploring the potential of a scale of developer contributions that exceeds simple 'offsetting'/ no-net-loss and instead contributes significantly to nature restoration and enhancement. Importantly, we urge caution against using these contributions to replace existing public funding streams, instead, we call for a complementary approach that combines private sector involvement alongside sustained public investment.[5]

Additionally, the Government should consider integrating clear guidelines that balance development needs with environmental sustainability, ensuring that infrastructure projects contribute positively to nature recovery and climate resilience. For example, guidance should be published to set out how renewable energy, such as solar farms, in suitable locations, can boost biodiversity through management measures like wildflower planting, appropriate grazing, good hedgerow management, wild bird seed mix sowing and removal of herbicides use.[6] As a prime example, the Sawmills solar farm in Devon, which features a comprehensive biodiversity management plan, has seen the number of bird species— including those that

[5] Link_response_Nature_Restoration_Fund_working_paper_Feb2025.pdf
[6] https://www.wcl.org.uk/docs/planning_ahead_on_land_and_sea.pdf

are threatened—almost double since its construction.[7] This should be a key focus of the revised NPSs

b. Are the proposed changes to NPSs the right approach and will this support greater policy certainty?

We support the proposal for more frequent reviews of NPSs to ensure they remain current and reflective of environmental priorities. Regular updates will facilitate the integration of emerging environmental data and policy changes, promoting infrastructure development that is both sustainable and responsive to ecological needs and dynamic factors, such as growing climate change risks. In particular, a new iteration of NPSs should include clear tests, which should be applied throughout the development process, to ensure that proposals are compatible with delivery of statutory nature and climate targets under the Environment Act 2021 and the Climate Change Act 2008. This will improve the environmental integrity of proposals are reduce uncertainty for developers.

Regular reviews and updates to NPSs are essential for maintaining policy relevance and certainty. However, the proposed changes must ensure that environmental considerations remain central to infrastructure planning. We advocate for the inclusion of explicit commitments within NPSs to protect and enhance biodiversity, aligning with the Government's legal obligations to halt nature's decline by 2030, and for clear requirement for an overall contribution from NPSs towards nature and climate targets.

This must urgently include clarification of the promised extension of biodiversity net gain to NSIPs, promised for 2025, as well as the introduction Marine Net Gain. This will provide clearer guidance for developers and planners, helping ensure the delivery of infrastructure projects that are sustainable and environmentally responsible. Requirements for biodiversity net gain in major infrastructure should be introduced quickly and set expectations for developers to go significantly beyond offsetting to contribute to nature recovery.

In addition, any simplification of the process of revising NPSs should not remove the need to carry out the appropriate Appraisal of Sustainability and Habitats Regulations Assessment. These are essential to protecting nature.

c. Do you think the proposals on consultation strike the right balance between a proportionate process and appropriate engagement with communities?

[7] https://solarenergyuk.org/wp-content/uploads/2023/06/Solar-Habitat-Report-2023.pdf

Effective consultation is fundamental to democratic planning, environmental stewardship, the legitimacy and public support for development. While efforts to reduce unnecessary burdens are understandable, they must not undermine the depth and quality of community and stakeholder engagement.

At present, the applicant's duties also include preparing a statement of community consultation (SOCC), on which they need initially to consult the local authority. This sets out how an applicant will consult people living in the vicinity of the land and any community consultation by the applicant must then be undertaken in accordance with it. Applicants are required to have regard to the consultation responses and, as part of their application materials, produce a consultation report. Legislation sets requirements for this report. In addition, the previous government put in place a new pre-application service to strengthen early planning advice to applicants under section 51 of the Act, and enable more intensive input and support for those projects that require it. It also updated statutory pre-application guidance, setting clearer expectations that consultation should be effective and proportionate, and that there should generally not be a need to re-consult with the community, unless a very significant change to the application is proposed.

The new proposals suggest **r**evising requirements around the contents of consultation reports so that they can report on the themes and issues raised across consultation responses. Applicants will still have a duty to report on how they have consulted, but the revised requirements will support much more concise and thematic summaries of the feedback received, with simple explanations of how responses have or have not influenced the project. This will help applicants to reduce their length and make them more accessible. The consultation report will also enable applicants to summarise how they and consultees, in their view, have met a duty to 'narrow areas of disagreement'. However, this shift to thematic reports must ensure that critical issues are not overlooked, as some ecological concerns may be identified by only a few experts but remain highly significant. It is essential that the reporting process captures the full breadth of ecological impacts, ensuring that even less widely recognised issues receive the attention they deserve in decision-making. Likewise it can be helpful for those speaking in public inquiries to see the detail from previous consultations - and this can help avoid duplication.

The consultation processes, and any revision of reporting requirements, must be designed to facilitate meaningful input from a diverse range of stakeholders, ensuring that environmental impacts are thoroughly assessed and addressed as early in the process as possible. In addition

to ‘assessing the adequacy of proposed consultation arrangements early in the pre application process,’ updated guidance should also consider:

- Best practice for community consultation according to Cabinet Office guidance (2018), the Gunning Principles, and Articles 6(2)-(4) of the Aarhus Convention (The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters).
- Plans for engaging with a wider variety of local communities and interest groups, beyond those who typically engage.
- Specification that gaps in consultation identified during the milestone check are filled.
- Guidance on how to report back to consultees on how feedback was considered and incorporated.

In addition, to ensure fair and proportional engagement is prioritised, we recommend that MHCLG commission detailed research on the experiences of a wide variety of local communities and interest groups with the NSIP regime, including those who might not respond to an online survey – notably hard-to-reach groups. This could include using the Planning Inspectorate’s data to assess the involvement of interest groups in the formal NSIP process. It should also seek to elicit the perspectives of a variety of interest groups, not just those who typically engage.

To emphasise, any proposed streamlining should focus on eliminating redundancies, without sacrificing the integrity of environmental evaluations and efforts to ensure public trust.

d. Do you agree with the proposal to create a new duty to narrow down areas of disagreement before applications are submitted? How should this duty be designed so as to align the incentives of different actors without delaying the process?

Introducing a duty to resolve disagreements prior to application submission could enhance efficiency. To align incentives and prevent delays, this duty should be structured to encourage early, upfront and transparent dialogue among developers, environmental experts, and local communities. This could speed up planning processes as well as protecting the natural environment as, for example, some offshore wind developments have been prevented from progressing to examination by a failure on the part of developers to make detailed consideration of Habitats Regulations requirements and the entering of incomplete applications. Earlier, substantive conversations with statutory consultees could prevent this.

However, the effectiveness of this approach will largely depend on whether it successfully provides enough information for consultees to give substantive responses early-on. And likewise, it must ensure that adequate discussions between relevant agencies are both possible and suitably robust at an early stage, including consideration of how any lack of engagement should be taken account of in examining the application.

The Planning Inspectorate must be genuinely resourced, even at the 'basic' pre-application service, to provide minimum statutory advice, and provide robust and impartial guidance during the pre-application stage. Crucially, this must include a greater emphasis on actively facilitating alignment with the UK's legal net zero and nature recovery targets. Even within the new chargeable pre-application service, the Planning Inspectorate must still be prepared to be robust in rejecting those applications which fall below desired environmental standards or come late in the process, with impacts to all involved including the statutory agencies. This should include giving the PINS more powers to withdraw a DCO application if the developer consistently fails to provide adequate and timely information.

For the associated statutory agencies to play a meaningful, and timely part early-on in the process, resourcing and capacity concerns must be urgently addressed. Without addressing these significant challenges, statutory agencies will be unable to deliver the required quality of advice and robust assessment in a timely manner. Natural England and the Environment Agency have important roles in the planning system and in the DCO application process. Unfortunately, years of under-resourcing of these agencies has left them lacking the sufficient resources, capacity, and expertise to fulfil their statutory functions. Between 2009- 2019, Environment Agency funding fell 63%, total staff fell 25%, and prosecutions of businesses fell 88%.[8] This has resulted in a lack of enforcement: the number of Environment Agency enforcement notices fall 69.5% between 2012 to 2019.[9] Natural England's functions have also suffered from a lack of funding over the last decade: a decline of 72% from 2010 to 2019.[10] The body has not been able to properly fulfil its statutory duties such as the monitoring of SSSIs, 78% of SSSIs have not been monitored in the last 6 years, making it difficult to assess the impact of projects on SSSIs.[11] Between 2022 and 2023, Natural England failed to meet deadlines for 17.1% of nationally significant infrastructure project applications and for over a fifth of the deadlines missed, due to under resourcing and workload issues.[12] Similarly, for local infrastructure and development project applications, Natural England missed nearly 20%

[8] https://www.unchecked.uk/wp-content/uploads/2020/11/The-UKs-Enforcement-Gap-2020.pdf
[9] https://www.rspb.org.uk/globalassets/downloads/our-work/troubled-waters-report
[10] https://www.unchecked.uk/wp-content/uploads/2020/11/The-UKs Enforcement-Gap-2020.pdf
[11] https://questions-statements.parliament.uk/written-questions/detail/2021-02-09/151834
[12] Natural England Freedom of Information Request.
https://www.wcl.org.uk/docs/Letter_to_Chancellor_environmental_planning_expertise_10.09.24.pdf

of its statutory deadlines, with capacity and higher than normal levels of staff churn responsible for 83.28% of these delays.[13] As ambition for renewable deployment, house building and transport rightly increases, without significant investment, pressure on an already creaking system will continue to mount.

In addition to increased funding and ecological expertise for Natural England, the Environment Agency and other statutory nature conservation bodies, these must be empowered to properly and confidently apply environmental regulation, advise and conclude on environmental assessments and decisions, leading to better environmental outcomes and more certainty in the planning system. An emphasis on streamlining the process must not leave the associated statutory agencies in a position where sub-optimal environmental outcomes are permitted.

Ensuring suitably detailed and robust ecological evidence and data is available will be critical. To improve the quality of applications and upfront environmental information, there must be stronger minimum requirements during the screening process for applicants to check the existing environmental evidence base, in particular, to ensure that sensitive areas and protected species records are examined. The Government should strengthen requirements to ensure that appropriate environmental information is sought prior to consultation, as this will reduce the likelihood of requiring repeated consultation responses requesting the same information. Strategic monitoring funded by developers, as opposed to monitoring only on a case-by-case basis, could help improve environmental information, especially at sea, making it easier to properly consider environmental requirements. The Government should also take measures to ensure that details such as tree reports, or at least an assessment by the applicant of Irreplaceable Habitats, are submitted prior to DCO stage to inform responses.

We welcome the stated intention to consider ways to monitor or review compliance with this duty, as this will be essential for ensuring it is followed and enacted in suitably robust way. It is imperative that this process does not become an inconsequential formality, but genuinely addresses and integrates environmental concerns into project designs.

e. Do you support the changes proposed to Category 3 persons?

We have concerns regarding the proposed changes to the definition and engagement of Category 3 persons. Ensuring that all parties potentially affected by infrastructure projects are adequately informed and consulted is vital. Any amendments should not diminish the

[13] https://assets.publishing.service.gov.uk/media/64b1699307d4b80013347331/ne-dclg-2022-23-annual-report.pdf

rights of individuals or groups to participate in the planning process, particularly those representing environmental interests. We urge the Government to maintain inclusive consultation practices that recognise the value of diverse inputs in achieving environmentally sound outcomes.

f. With respect to improvements post-consent, have we identified the right areas to speed up delivery of infrastructure after planning consent is granted?

While accelerating post-consent delivery is desirable, it must not come at the expense of environmental compliance and monitoring. The identified areas for improvement should include stringent oversight mechanisms to ensure that expedited processes do not lead to ecological degradation. We recommend the adoption of adaptive management strategies that allow for responsive adjustments to environmental safeguards as projects progress, ensuring that infrastructure development remains aligned with conservation objectives.

With regard to the potential merit of extending to other licences the approach taken with respect to marine licences under section 149A we do not object to this in principle as long those statutory bodies with responsibility for granting licenses retain the ability to advise on whether deemed licenses should be granted. Deemed licenses should only be granted following a thorough process of consultation with relevant statutory bodies with all relevant environmental information being provided allowing the statutory body to offer informed advice and consent for deemed licence to be granted. In addition, statutory bodies responsible for granting licenses must retain responsibility for enforcing, post-consent monitoring, varying, suspending, and revoking any deemed licenses.

We acknowledge that the current process for determining whether a change is 'material' or 'non-material' can cause delays and uncertainty for developers. However, removing this distinction entirely raises significant concerns regarding the potential weakening of environmental oversight, transparency, and accountability.

If a single change process is introduced, it must be designed to:

- **Ensure robust environmental scrutiny** – Any changes to a DCO must be subject to environmental assessment to determine their potential impact on protected species, habitats, and ecosystem resilience.
- **Preserve stakeholder engagement** – The current process, despite its inefficiencies, allows for public consultation and expert input when 'material' changes are proposed. The new system must not weaken these engagement mechanisms.

- **Maintain legal safeguards** – A proportionate approach to change requests should not lead to a situation where substantial modifications to projects with significant environmental consequences are processed too quickly or without appropriate oversight.

Instead of removing the materiality distinction outright, a structured system should be introduced where changes with potentially significant environmental effects automatically trigger enhanced scrutiny. If a proposed change could increase environmental harm, it must undergo a proportionate but thorough review., Updated associated guidance should be provided to give clarity to developers and avoid delays.

While clear guidance and statutory timelines can improve efficiency, concentrating decision-making power within the Secretary of State's discretion raises concerns about consistency, transparency, and environmental protection. We recommend that:

- Decision-making criteria for DCO amendments be clearly defined and include explicit environmental safeguards.
- The Planning Inspectorate retains an independent role in assessing change requests with potentially significant environmental impacts.
- Any changes affecting sensitive ecological areas or legally protected sites continue to require a full public consultation and environmental assessment.
- The Secretary of State's discretion must be guided by transparent environmental criteria to ensure accountability.

g. What are the best ways to improve take-up of section 150 of the Planning Act? Do you think the approach of section 149A has the potential to be applied to other licences and consents more generally?

Enhancing the utilization of Section 150 could be achieved by providing clearer guidance and support to developers on integrating multiple consents. The approach of Section 149A, which allows for certain consents to be included within Development Consent Orders, has some potential for broader application. However, this should only be pursued cautiously, and only in situations where a deemed licence is prevented from delivering a lower level of environmental protection than a licence issued through the established process, ensuring that specialized environmental assessments are not bypassed. Established licensing processes feature input from subject experts which improves the robustness of the licences and are designed to protect the environmental subject independent of project-specific motivations. Maintaining rigorous environmental scrutiny is essential for upholding ecological standards

and securing nature's recovery so there will be types of licence for which a deemed licence is not appropriate.

h. With respect to providing for additional flexibility, do you support the introduction of a power to enable Secretaries of State to direct projects out of the NSIP regime? Are there broader consequences for the planning system or safeguards we should consider?

Granting Secretaries of State the power to exclude projects from the NSIP regime raises significant concerns. Such discretion could lead to inconsistencies and reduced transparency in infrastructure planning. We recommend that any such power be accompanied by clear criteria and robust safeguards to prevent the circumvention of environmental assessments and public consultations. This should include a clear statement of compatibility with the principles outlined in the environmental principles policy statement and not undermine the provisions of the Environment Act.[14] Ensuring accountability and adherence to environmental commitments is paramount in any adjustments to the planning regime. Likewise, addressing resourcing and capacity constraints within the system is key to ensure these commitments can be effectively and robustly actioned.

i. Do you believe there is a need for the consenting process to be modified or adapted to reflect the characteristics of a particular project or projects? Have we identified the main issues with existing projects and those likely to come forward in the near future? Can we address these challenges appropriately through secondary legislation and guidance; or is there a case for a broad power to enable variations in general? What scope should such a power have and what safeguards should accompany it? If a general process modification power is not necessary, what further targeted changes to the current regime would help ensure it can adequately deal with the complexity and volume of projects expected over the coming years?

Adapting the consenting process to reflect the unique characteristics of certain projects may offer benefits in efficiency. However, this must not result in the erosion of environmental protections. We suggest that any modifications be guided by comprehensive environmental impact assessments and subject to public scrutiny. Targeted changes should be carefully evaluated to ensure they do not compromise biodiversity or ecosystem integrity, and broad powers to vary processes should be approached with caution. Any discretionary power by the Secretary of State to adjust the Development Consent Order (DCO) process in certain circumstances and to vary the NSIP process is concerning and, in enacted, must be exercised

[14] Environmental principles policy statement - GOV.UK

with caution and subject to rigorous oversight. It is essential that any modifications to the process maintain procedural fairness and do not compromise the ability of affected communities to engage meaningfully.

Pioneering a more flexible approach must be governed by clear, objective criteria to prevent arbitrary decision-making and ensure predictability for stakeholders. The Government must outline the specific conditions under which a project may be directed out of the NSIP process, ensuring that public participation, environmental considerations, and community impact assessments remain integral to decision-making. Additionally, cost recovery mechanisms for public bodies must be structured to prevent undue financial burdens on local authorities.

The introduction of a general process modification power has the potential to create a more adaptive and efficient NSIP regime. However, this must be balanced against the need for consistency, legal certainty, and the protection of stakeholder rights. Any discretionary modifications must be guided by clear, evidence-based criteria and robust safeguards to ensure fair and predictable outcomes.

If such a power is introduced, we recommend that it should be targeted to focus on:

- **Specific stages of the consenting process:** Limiting modifications to key stages such as pre-application, acceptance, pre-examination, and examination could help streamline the process while maintaining due diligence.
- **Complex, novel, or geographically clustered projects:** Projects that present unique challenges due to their complexity, innovation, or location could benefit from bespoke process adjustments, ensuring that their specific needs are met without undermining overall procedural integrity.
- **Critical National Priority and strategic projects:** Projects of national importance, as identified in a 10-year Infrastructure Strategy, Energy NPSs, or sectoral spatial plans, may warrant procedural flexibility to ensure timely delivery, particularly in relation to achieving net zero, nature recovery and climate resilience. However, we retain concerns regarding the introduction of 'critical national priority' as it overrides SSSI, NP and NL policy protections, and likewise undermines the mitigation hierarchy. Although it currently applies to 'low carbon' infrastructure, we are concerned this could include energy-project types with significant potential environmental impacts and questionable sustainability credentials – such as nuclear and bioenergy.
- **Strategic nature-based solutions and projects**: We support a streamlined presumption in favour of genuinely sustainable development activity that will deliver genuine sustainable nature-based solutions. The only projects benefiting from this

process should be those who primary aim is 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, with new walkways and a small building for storing maintenance materials). This presumption should 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 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.[15]

It is crucial that planned reforms incorporate safeguards that uphold transparency, accountability, and fundamental planning principles. These key safeguards should include:

- **Statutory consultation requirements:** Any proposed modifications must be subject to consultation with key stakeholders, including developers, local authorities, communities, and public bodies, ensuring that changes reflect broad-based input.
- **Transparent decision-making and ministerial accountability:** Any application of the power must be justified through robust evidence and a clearly articulated needs case, ensuring public confidence in the process.
- **Parliamentary scrutiny:** Any changes should require Parliamentary approval, maintaining democratic oversight and reinforcing public trust in the infrastructure planning system.

We support the proposal to introduce a new power for the Secretary of State to issue statutory guidance across the entire consenting process under the Planning Act 2008. Providing greater clarity for all stakeholders at key stages - such as acceptance, pre-examination, examination, and decision-making - would enhance the predictability and efficiency of the system. New statutory guidance will play a crucial role in supporting both procedural consistency and the implementation of key legislative changes, including better alignment with our nature recovery and climate targets. In particular, guidance on consultation requirements, including the notification of Category 3 persons under Part 6 of the Act, would improve transparency and ensure affected parties are appropriately informed.

[15] https://www.wcl.org.uk/docs/planning_ahead_on_land_and_sea.pdf

However, it is important that such guidance remains adaptive and is developed through meaningful engagement to ensure it is fit for purpose.

Finally, as the Government seeks to streamline and improve the efficiency of transport consenting regimes, it is essential that these reforms maintain a strong commitment to environmental sustainability and support the UK's net-zero ambitions. While increasing efficiency in planning and consenting is crucial, it must not come at the expense of robust environmental safeguards. The proposed amendments to the Highways Act 1980 and the Transport and Works Act 1992 must be designed to prevent negative impacts on biodiversity, air quality, and carbon emissions while promoting long-term ecological resilience.

To achieve this, reforms should actively encourage the integration of low-carbon transport infrastructure, such as active travel networks, electric vehicle charging stations, and sustainable urban mobility projects. The ability to "deem planning permission" should be accompanied by clear environmental benchmarks, ensuring that all projects contribute positively to carbon reduction targets and climate adaptation efforts.

At the same time, efficiency measures—such as statutory deadlines and cost recovery mechanisms—must not compromise meaningful stakeholder engagement. Environmental groups and local communities play a crucial role in shaping sustainable infrastructure, and their input should not be diminished in the interest of expediency. A balanced approach is needed to ensure that faster decision-making does not sideline public consultation on projects with significant environmental implications.

Climate resilience must also be a fundamental consideration in infrastructure planning. New transport schemes should be required to integrate flood mitigation measures, sustainable drainage systems, and urban cooling strategies to address the heat island effect. While aligning objection periods with other planning regimes may improve consistency, this should not come at the cost of comprehensive environmental impact assessments that fully account for long-term ecological risks. To help achieve this, all transport projects under these reformed consenting regimes should incorporate biodiversity net gain principles. Infrastructure development should contribute to ecological restoration rather than degradation by integrating habitat restoration efforts and establishing green corridors along transport routes.

Overall, the Government must ensure that streamlining transport infrastructure consenting does not lead to unintended environmental consequences. By embedding sustainability

principles at the core of these reforms, the UK can accelerate infrastructure development while staying aligned with its climate commitments and ecological responsibilities.

Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 86 organisations to use their joint voice for the protection of the natural world and animals.

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The following organisations have inputted into this briefing and also support our recommendations.

Bat Conservation Trust
The Wildlife Trusts
RSPB