

Planning Reform Working Paper – Development and Nature Recovery Officer Response following discussion at Stroud District Council Strategic Planning Advisory Board (SPAB).

Thank you for the opportunity to respond to this working paper.

a. Do you consider this approach would be likely to provide tangible improvements to the developer experience while supporting nature recovery?

The starting point should not be that nature is in the way of development. Nature is not only essential for our existence, but brings many benefits, too. There is a risk with the proposals in the working paper that developers will manipulate the system to use it as a ‘pay to harm’ approach to obtaining consent for inappropriate projects in the wrong place.

In theory the proposed new approach could provide tangible improvements to the developer experience, but it needs to be ensured that this is not at the expense of nature recovery. A genuine impact assessment is needed prior to development to ascertain what is being lost, and therefore what mitigation is required. The Government is committed to getting Britain building again, at the same time as supporting nature recovery and delivering on the Environment Act. Land area for a variety of proposed competing uses is a finite resource. There is a need to rebuild nature at the same time as building the sustainable homes, clean power, and other infrastructure. The proposed approach would make it much cheaper and simpler for developers to fulfil their environmental obligations. However, it could only work in an area where no local solutions had been found to strategic nature conservation issues. Any proposal should not destroy the systems that have been working for a number of years to resolve issues such as nutrient neutrality and recreational disturbance across the Severn and neighbouring areas. Where solutions already exist consideration should be given to transitioning and incorporating them into Delivery Plans. wherever practicable and maintaining the existing approach and governance arrangements where they work locally.

There is a concern that high environmental standards will not be met by simplifying legislation. This may not lead to development projects still meeting high environmental standards and avoiding harm to nature or the environment. A more strategic approach can be welcomed but there is a need to ensure communities still benefit from the mitigation of impacts locally. The local impact mitigation link is embedded in both the planning obligation and planning condition legislative tests, for example.

It also needs to be recognised that high level nature recovery areas cannot be achieved with high densities of population. Good quality green space can add some benefits to nature, but it will not achieve high nature status very close to developments, so doesn’t meet the needs of nature recovery.

b. Which environmental obligations do you feel are most suited to this proposed model, and at what geographic scale?

The thrust to move to a system that can identify and deliver on opportunities for development to collectively fund nature projects at the right spatial scale can be welcomed. This means converting small, poorly targeted, and time-consuming project-specific obligations into strategic action plans for environmental protection and improvement where these will deliver the most for nature will be likely to have considerable resource implications. However, how will these be determined and at what level? National, landscape scale, regional, county or District is unclear.

This proposal does give opportunities for nature recovery, but its implementation is unclear. Clear and accurate initial assessments of what will be lost is imperative to enable full mitigation to be provided.

It is essential that the mitigation hierarchy must be used. Where the offset category is used it must be accompanied by a statement as to why the other options (such as avoid) cannot be achieved. This is important to the transparency and trust of decision makers. These proposals must not replace it.

The document more importantly does not refer to irreplaceable habitats and other environmental assets that cannot be mitigated, yet these are frequently considered for development. It is not credible to suggest developments on such sites is sustainable. It would provide certainty for developers if such sites were totally protected at a national level (a complete moratorium on development on restorable limestone grasslands, for example, with a Delivery Plan that sets out how such sites can be restored and improved).

Welcome that the Government is seeking to address these matters, but the commentary provided below needs to be considered and answered:

- i) take a holistic view of nature recovery to secure better environmental outcomes;

Comment support thrust but how to weigh with other environmental considerations that may be in conflict?

- ii) go beyond offsetting environmental impacts and instead use development to deliver positive outcomes for nature recovery:

Comment: Not all environmental impacts can be addressed through nature recovery. Other sustainable solutions may be needed, if wider biodiversity loss is to be reversed.

- iii) improve efficiency and reduce duplication to ensure every pound spent helps deliver our environmental goals;

Comment that HRA is targeted against specific impacts such as recreational pressure and/or water and air quality for example. These impacts require scientific approach to assess. What are the wider environmental goals?

- iv) make it far easier for developers to discharge a range of environmental obligations, and provide the legal certainty necessary to underpin substantial capital investment;

Comment can be supported where the strict planning obligation tests are met including mitigating impacts in broad locality where they arise Risks disadvantaging or blighting some communities. Where does the local voice and accountability fit in? The success of this new approach depends on meaningful community engagement. Local communities must have a say in the development and implementation of Delivery Plans to ensure they reflect local priorities and needs.

- v) give delivery partners the tools they need to generate positive outcomes for nature, empowering them to make the right choices to deliver nature recovery;

Comment support thrust but who determines which partners benefit and at what geographical level?

- vi) establish a robust and transparent framework to monitor delivery of environmental outcomes;

Comment: what tools and resources will be provided to whom to not only monitor but review and adjust those outcomes? What actions can be taken post development if environmental standards are not being met?

- vii) create a lasting legacy of environmental improvement that will promote better public health through increased access to high quality green spaces.

Comment support but how is this weighed with nature recovery prioritisation? Nature recovery requires different standards of natural space compared to public health and well being, (with the provision of high quality green spaces).

c. How, if at all, could the process of developing a Delivery Plan be improved to ensure confidence that they will deliver the necessary outcomes for nature?

Unsure as the legislation is based on addressing specific impacts through a variety of means to secure specific outcomes. What is good for one approach, may disadvantage other targeted approaches? Text says “at the heart of this modular framework, there would be a core common element – a Delivery Plan. These would be produced by a relevant delivery body”. This will need resources and will have time implications. Who arbitrates the weight placed on an issue? It also reads “calculate the cost of these interventions and apportion the proportionate costs to relevant developments”. This apportion of costs cannot be implemented unless an effective environmental assessment has been carried out prior to any development commencing. An evidence-based approach is essential. Delivery Plans should draw on a robust baseline of hard and soft data and should be supported by ongoing monitoring and evaluation. Input from experts such as the Wildlife Trusts, the RSPB and others. Recognition of the huge value of local knowledge from local communities and local authorities. Other opportunities can also be explored, such as delivery covenants; land held in perpetuity; independent ecologists (as opposed to developer or developer-funded ecologists). So this suggests potential weakening of environmental protection with impact costs needing to be proportionate. All delivery plans need to be linked to the Local Nature Recovery Strategy in each county.

The Government is working with the British Standards Institution to develop high-integrity standards for nature markets, (where is the information coming from to develop these standards?) which will help provide further confidence to everyone that they represent robustly assured outcomes. It is vital that Delivery Plans do not involve any unnecessary or duplicative work if implemented.

d. Are there any additional specific safeguards you would want to see to ensure environmental protections and / or a streamlined developer experience?

There is an uneasy tension in the statement “ These proposals are not expected to have any substantive impact on the implementation of mandatory Biodiversity Net Gain (BNG), which is a widely applicable planning obligation in England. BNG incentivises nature positive choices on development sites, with a developing private marketplace for off-site biodiversity units which the Government continues to fully support. “ provided the existing ecological hierarchy is closely followed and off-site does not become the default position. A question arises whether

these proposals are designed to only help the developer or genuinely take nature recovery into consideration.

“Before a Delivery Plan could take effect, it would be subject to scrutiny and sign-off by the Secretary of State who would need to be satisfied it was aligned with our wider environmental and growth ambitions and consistent with our domestic and international legal commitments.” This suggests further potential delay.

“If a Delivery Plan were shown to be underperforming, the delivery body would be required to secure actions to address any underperformance, with the plan ultimately being revoked and revised if remedial actions were not sufficient to provide the necessary levels of environmental protection.” In the absence of Environmental Impact Assessments (EIAs), the introduction of Environmental Outcomes Reports (EORs) raises questions about how alternative proposals will be appraised. Without rigorous analysis of options, there is a risk that suboptimal plans will be approved, undermining environmental objectives and public trust. This also assumes there would be alternative options, that may not exist. Any new framework must mandate a robust consideration of reasonable alternatives, aligning with established best practice under EU-derived Environmental Assessment principles.

Shifting responsibility for planning and implementing strategic actions onto the state raises questions about funding. Adequate, ring-fenced funding must be provided to ensure long-term delivery and monitoring. Reliance on subjective developer-led approaches or ecological assessments without independent scrutiny could undermine environmental outcomes and public trust. Developers must not be able to wriggle out of funding responsibilities through “viability” clauses within planning policy. Delivery bodies must have clear responsibilities and accountabilities, including for updating baseline data, for agreeing the strategic aspirations and for ongoing measurement and monitoring.

See also the concerns expressed in g at the end of this representation.

e. Do you support a continued role for third parties such as habitat banks and land managers in supplying nature services as part of Delivery Plans?

Yes, including farm clusters. The interaction between land use for nature’s recovery, climate mitigation, food production and development must be carefully managed. A national Land Use Framework is essential to balance competing priorities and ensure future food security alongside environmental objectives.

f. How could we use new tools like Environmental Outcomes Reports to support this model?

The Environmental Outcomes Reports must be subject to the principles of the Green Claims Code to ensure environmental/ecological issues are not diluted for the benefit of development. The Delivery Plans must also be underpinned by detailed evidence, such as robust Natural Capital Assessments and Preliminary Ecological Assessments that meet CIEEM requirements. Strategic delivery must be grounded in rigorous, evidence-based assessments. To ensure credibility:

- All decisions and plans should be underpinned by peer-reviewed research;*
- Independent oversight and input from ecological experts and academic institutions should be required.*

To have credibility, such assessments must be carried out by independent experts, not those employed by developers. This needs more detail and future implementation must ensure there are adequate skills and resourcing for LPAs and/or delivery body.

g. Are there any other matters that you think we should be aware of if these proposals were to be taken forward, in particular to ensure they provide benefits for development and the environment as early as possible

See earlier comments on how to assess and weigh one impact from another or others. Will nature recovery take priority over flooding, climate change, air quality, soil quality? Some clear guidance will be required to avoid lengthy legal case law delays and challenges.

Concerns that remain with the working paper can be summarised as follows:

- In the absence of Environmental Impact Assessments (EIAs), the introduction of Environmental Outcomes Reports (EORs) raises questions about how alternative proposals will be appraised.*
- The Treasury Green Book must be adhered to, as it provides mandatory guidance for the appraisal and evaluation of projects and policies. Ensuring its application will deliver a range of benefits, including: Comprehensive assessment of alternatives; Quantitative analysis of harms and benefits, including natural capital, biodiversity, and socioeconomic impacts; Greater transparency and accountability for decision-makers and project promoters. The Government's proposed greater involvement in strategic delivery makes adherence to Green Book principles essential. Developers and project promoters should also be held to these standards.*
- The precautionary principle must remain central to decision-making to avoid irreversible damage where evidence is incomplete or uncertain. The mitigation hierarchy should be strictly applied to ensure harm is minimised before compensatory measures are considered. Sometimes, mitigation measures must be in the same catchment or location as the created harm. There is no point mitigating for loss of landing/feeds sites due to development for migrating European white-fronted geese and Greylag geese in the Severn Estuary by creating habitat in the Norfolk Broads.*
- The duration of protection for newly created habitats is critical. There must be long-term (ideally perpetuity) legal and financial mechanisms to safeguard these areas, ensuring their ecological benefits are sustained.*
- It is not clear on the relationship and/or overlap with Local Nature Recovery Strategies, 48 of which currently cover the country. How will competing aspirations be handled? Will the responsible authority for the LNRS be the same as those for Delivery Plans? Delivery Plans must align with LNRS and all other local plans to avoid conflicts with local environmental priorities.*
- While Delivery Plans may provide a better framework for mitigating harm and creating new habitats, cumulative impacts must be addressed comprehensively. This includes, for example, the impact on red listed birds and endangered wildlife and plants. It would be misleading to suggest that the eradication of a local population of skylarks on Rodborough Common, for example, is acceptable and can be sacrificed because a Delivery Plan exists that aspires to grow a skylark population elsewhere in the country.*

Finally, it is of significant concern that the paper proposes removing the need for species surveys (as with newt licensing). Baseline surveys of species (e.g., through iRecord, iNaturalist, and Local Records Centres) must be incorporated into any Delivery Plans, along with on-the-

ground surveys. There is a risk that the new holistic view of nature recovery misses out important detail 'on the ground'. Without surveys how can the effectiveness of the plan be monitored? Surveys should be completed at various stages and on an ongoing basis.