

# CONSULTATION

## Response Document



### **Planning Reform Working Paper: Development and Nature Recovery (Defra and MHCLG)**

12 February 2025

# 1. Introduction

## 1.1 About CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM) is the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland.

CIEEM was established in 1991 and has over 8,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. It therefore has a considerable breadth and depth of professional expertise from which to draw upon, when for example, responding to Government consultations such as the one currently circulating.

CIEEM has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

CIEEM is a member of the following organisations/collaborative initiatives:

- Environmental Policy Forum
- Society for the Environment
- Wildlife and Countryside Link
- Scottish Environment Link
- Wales Environment Link
- Northern Ireland Environment Link
- IUCN – The World Conservation Union
- United Nations Decade on Ecosystem Restoration 2021-2030 Network
- Irish Forum on Natural Capital (working group member)
- National Biodiversity Forum (Ireland)
- Environmental Science Association of Ireland

## 1.2 About the Consultation Response Document

CIEEM welcomes the opportunity to comment on the Government's working paper 'Planning Reform Working Paper: Development and Nature Recovery' published on 15 December 2024.

The Government's working paper invites views on a proposed new strategic, streamlined and more outcome-focused approach to the development planning system. The Government hopes that in turn such an approach will help to meet its ambitions for economic growth, nature recovery and broader environmental obligations.

A summary of the main points from CIEEM's considered and detailed responses to the specific questions posed in the working paper are provided in Section 2 of this consultation response document. Section 3 provides our detailed responses to each question posed by the Government's Working Paper.

CIEEM's consultation response document has been informed by the expertise and experience of its membership, many of whom have considerable environmental planning expertise.

## 2. Summary of CIEEM's Response

*"Our economies, livelihoods and well-being all depend on our most precious asset: Nature."* (Dasgupta Review 2021).

There is widespread consensus amongst environmental professionals, based on research and reviews, that a healthy and prosperous society flows from the existence of a resilient and fully-functioning natural world, not the other way around. Indeed, a [recent study](#) by the Green Finance Institute, the Environmental Change Institute at the University of Oxford, the University of Reading, the UN Environment Programme World Conservation Monitoring Centre and the National Institute of Economic and Social Research has shown that the deterioration of the UK's natural environment could lead to an estimated 12% loss to GDP – more than that caused by the 2008 financial crisis or the COVID-19 pandemic. The natural world must not therefore be seen as a secondary objective to economic growth, but rather as an essential prerequisite for sustainable economic growth to occur at all. Without a healthy and resilient natural environment, societal wellbeing and prosperity will not become a reality.

CIEEM welcomes the Government's intention to boost nature recovery whilst also making the development planning process more effective and efficient. Improving how development impacts on the natural environment are managed through planning process reform could be transformative for nature and developers. However, there are a number of significant issues with the approach as currently proposed in the working paper, and a troubling lack of detail and clarity over how the Government sees the new approach working in practice.

CIEEM urges the Government to pause, reconsider and amend its proposed approach, in ongoing consultation with key bodies such as CIEEM who have a wealth of professional expertise to draw upon. CIEEM's wealth of expertise can help the Government to devise a system that genuinely works for development/planning and nature recovery. Many CIEEM members work directly with planning day-to-day and are therefore in a perfect position to propose reforms that will work. CIEEM would be happy to support and advise the government in amending and building on the existing framework to meet the government's aspirations.

As various existing studies and papers (referenced in the text below) have stated, the housing crisis has arisen due to a complex multi-faceted and intertwined set of factors, and cannot necessarily be attributed to the environmental regulatory system. While there are undoubtedly delays in approvals due to nature legislation these

are rarely if ever not accompanied by other legal, stakeholder, economic and practical challenges that have a greater influence on the time to completion than nature.

To summarise our full response, CIEEM's key messages regarding the planning reform proposals are:

1. Nature is not a barrier to development, and nature recovery and development can work in harmony with each other. No evidence is provided to support the proposed reforms.
2. We recommend re-evaluating the proposed approach, suggesting instead that better resourcing and implementing current system would be a more efficient and faster solution.
3. The introduction of a Nature Restoration Fund must not be used to undermine the Mitigation Hierarchy. All plans and projects must always look to avoid and reduce their environmental impact before looking at compensation measures.
4. Early engagement of ecologists and other environmental professionals in plan and project design and development will create certainty and clarity for developers.
5. Adequately resourcing statutory agencies and Local Planning Authorities will allow faster and more efficient discharge of their duties, and also allow for the creation of the conditions required to support private sector finance and investment in nature recovery.
6. Any move to strategic licencing for species beyond great crested newts must be fully evidenced. Government must acknowledge that this approach may likely be inappropriate for other protected species
7. There will be an ongoing need for site-based survey to inform decision-making and plan/project delivery (e.g. Biodiversity Net Gain), as well as monitoring to evidence effectiveness. The collection of these data could be 'frontloaded' into the system, but will still be required.
8. Any reform of the planning system must respect the environment principles: polluter pays, correction at source, and precautionary principles.
9. CIEEM and the considerable expertise within its membership are willing and ready to help the Government to improve the planning system for the benefit of people and nature.

### 3. CIEEM Responses to the Working Paper Questions

**Q7. Do you consider the approach set out in the working paper would be likely to provide tangible improvements to the developer experience while supporting nature recovery?**

Yes

No

Maybe

**Explanation (1500 character limit):**

The central principle of the working paper, that key environmental challenges causing delays to development should be tackled ‘early’ and ‘upstream’ in the planning process by a state-led intervention, has merit and is supported by CIEEM. However, the working paper lacks sufficient detail on all of its key proposals for us to be able to answer this question clearly. In summary, the working paper is an aspiration for a direction of travel, rather than being a functional framework for positive change.

The Working Paper makes a sweeping critique of the existing development planning system and regulatory framework for environmental protections without demonstrating that any objective, evidence-led appraisal has been undertaken to inform the working paper. There is no evidence that *existing environmental protection regimes are the main barrier to development as claimed*.

The Habitats Regulations/Directive have been rigorously reviewed on three separate occasions, and been found to be effective and fit for purpose on each occasion ([The 2012 Defra review of the Habitats Regulations \(Spelman Review\)](#), the [Government Red Tape Initiative of 2018](#), and the [EU’s REFIT review of the Nature Directives in 2016](#)).

Further, recent high-profile examples of the Habitats Regulations leading to delays in development (for example in respect of recreational pressure on the Thames Basin Heaths SPA or nutrient neutrality) have demonstrably been caused by the UK taking inadequate action to implement its commitments under the preceding European Habitats Directive. This is because Articles 6(1) and 6(2) of that Directive collectively require member states to take action to secure the internationally important wildlife sites to which they apply in favourable management, and address any existing sources of deterioration and damage. Because this was not done adequately, pressure on these sites has increased to the point at which environmental thresholds have been breached and Article 6(3), which requires new plans and projects adding pressure on those sites being adversely affected to mitigate their contribution, has inevitably had to ‘bite’. Any response to this situation will be resolved by meaningful action to tackle those sources of pressure and by extension creating the environmental headroom to enable new development – not by repeating the mistakes of the past by continuing to overlook and downplay environmental imperatives. Nature, and the legislation that protects it is not the blocker to growth and development. Nature, as highlighted by the [The](#)

[Economics of Biodiversity: The Dasgupta Review](#) (commissioned by HM Treasury) underpins our economies and livelihoods.

The Government should consider evidence such as the [Local Authority planning capacity and skills survey](#), the findings from 2023 suggest that 72% of Local Planning Authorities have technical capacity issues in ecology and biodiversity roles (they are under-staffed) to deliver what is required of them at present. The Government should consider the reasons cited for the housing crisis by the [Town and Country Planning Association's recent paper](#) including for example that the housing crisis is subject to a complex mix of factors beyond the planning system, along with the [Office for National Statistics' Natural Capital Accounts](#) showing that less people were spending time in nature, with a predicted drop in positive health outcomes that public services like the NHS may well have to address.

In summary, based on existing evidence (including the [Letwin Review](#)) there are a multitude of other plausible reasons for the housing crisis; much more than just an alleged malfunctioning environmental regulatory regime.

The working paper fails to place the proposed new approach in the context of highly-relevant and extensive reviews/initiatives already undertaken, including the [2021 Dasgupta review](#), the [Nature Recovery Green Paper](#), and the considerable cross-party and broad public support for the proposed [Climate and Nature Bill](#). The working paper proposals raise more questions than it does to provide answers.

It also fails to sufficiently describe and demonstrate the following:

- How the new approach will integrate with both the existing regulatory framework (of policies and legislation) – other than the Habitat Regulations, what other legislation is going to be amended and which provisions are going to be amended?
- How the proposed new Delivery Body/Bodies will integrate with the existing administrative jurisdictions and executive functions of existing public bodies. Which public body or Government department will arbitrate in the scenario when different Delivery Bodies and Delivery Plans have competing requirements? There is a tangible risk of double handling and duplication of effort causing inefficiencies and delays.
- How the new approach will integrate with other reforms proposed. It is regrettable, for example, that the consultation on the England Land Use Framework was delayed and not published before the current Working Paper. Obtaining clarity on the strategic use of land for all purposes (not just housing) would have been the logical first step.
- How exactly do the proposed Strategic Delivery Plans implemented by proposed new Delivery Bodies differ from existing Local Plans delivered by Local Planning Authorities?
- How exactly will the new approach provide greater certainty over consenting timescales compared to using existing planning performance agreements?
- How exactly does the proposed Nature Restoration Fund differ from existing funding mechanisms like BNG and the Community Infrastructure Levy and such as [BSI Flex 701 Nature Markets](#)?

It is therefore difficult to understand and accept the narrative and needs case being made.

On this basis, CIEEM therefore finds it difficult to say with any degree of certainty whether the proposals could indeed lead to better outcomes for nature, for developments, and societal growth as currently described in the Working Paper.

The proposal that environmental problems need to be solved by action undertaken earlier or 'upstream' in the planning process is a good one. Environmental harm can be 'locked into' developments when environmental assessment processes are first meaningfully applied only during the latter stages of the planning process (i.e. at planning application) when key decisions (such as where to allocate land) have already been made. Identifying environmental issues early on in the development process, and tackling problems at a strategic level could potentially streamline the process for developers and deliver better environmental outcomes, but this is difficult to assess with the current lack of detail in the Working Paper.

CIEEM welcomes proposals to improve strategic decision-making. The new approach proposes that most development will be consented by developers complying with a standard suite of mitigation measures, and paying into the Nature Restoration Fund which in turn helps deliver strategic nature recovery projects. There are examples of where a strategic approach to impact assessment and mitigation has worked such as District Level Licencing (DLL) for great crested newts (although the Working Paper holding up DLL for great crested newts as an example of how an improved process could work, seems to conflict with the Government's assertion that great crested newts are responsible for delaying development). Given that the Working Paper sets out details of several examples of strategic approaches to mitigation already being in place and working for development, the Government has not clearly explained why changes to legislation to enable such approaches are actually needed.

CIEEM is deeply concerned that the new approach appears to dispense with the need to collect any granular-level of detail about individual site conditions (habitats and species) to inform impact assessments and mitigation. It is assumed that the Government intends for this to occur for 'smaller' or 'less complex' development sites. Unless the collection of this environmental and ecological data is to be 'frontloaded' to inform a Delivery Plan (which we would advocate), then Delivery Plans will seemingly make unevidenced and potentially harmful assumptions about the baseline conditions in the spatial area they cover. It is inconceivable that policy documents such as the proposed new Delivery Plans can adequately cover the range of unique site-specific issues that may arise, so they would need to be very narrowly focused on the particular issues that they address. There is a real risk that the combined effect of consenting many 'smaller' or 'less complex' developments without a sufficient understanding of the baseline conditions could lead to significant negative cumulative effect at the landscape (or greater) spatial scale.

Furthermore, if there is a dilution in granular detail, the delivery of Biodiversity Net Gain (BNG) is likely to be undermined. BNG is dependent on accurate biodiversity data to enable the meaningful use of the Biodiversity Metric. Whilst the Working Paper commits to retaining BNG, it would become surrounded by policy that undermines it.

CIEEM is deeply concerned that the new approach seems to dispense with the well-established principle of the Mitigation Hierarchy. The Mitigation Hierarchy exists to protect our most valuable ecological assets and irreplaceable habitats (through the avoidance principle). Payment elsewhere through a Nature Restoration Fund is not sufficient to compensate for their losses. Retention of sites

is often cheaper and aligns with the UK's net zero ambitions by retaining carbon in the existing ecosystem.

The Mitigation Hierarchy furthermore encourages developers to avoid significant impacts through a robust options-appraisal stage and then through good site design on the preferred solution. Whilst we can anticipate that there may be instances where it is immediately apparent that impact avoidance and mitigation options are not feasible and compensation must therefore be relied upon as a last resort, this does not mean that this assumption should not first be checked and confirmed. There is nothing to be gained in our view, whatsoever, from simply skipping this essential step in the consideration process and circumventing the Mitigation Hierarchy. The new approach appears to dispense with the need for good place-making design to achieve sustainability, which is a golden thread running through the current development planning system.

Additionally, instead of creating new systems lacking an evidence base to locate areas of high potential for nature recovery, existing tools such as Local Nature Recovery Strategies (LNRS) should be better utilised. While many counties will have LNRSs in place during 2025, they are not, in their current form, sufficient to inform mitigation or compensation for development projects. There is also no central database for land use (which itself would require regular updating) that would be required for the proposed approach.

To ensure that changes to the development process do not compromise the natural environment and protections for biodiversity, the requirement for independent ecological assessments and site-based ecological assessments must remain in place. Without these aspects of the development process, plans could be approved without proper understanding of the impact on the natural environment. We do not however see that this necessarily equates to a failure to relieve the burden of assessment from developers – in circumstances where the environmental impact of a proposal on a particular important ecological feature has clearly been addressed 'upstream' by an adopted Delivery Plan, any project-level assessment could simply confirm that this is the case, and then not need to undertake further onerous assessment that duplicates the work of the Delivery Plan. This approach is already taken by Habitats Regulations Assessment practitioners where a strategic approach to mitigation is in place (for example with respect to the Thames Basin Heaths SPA) – in that instance, a project-level Habitats Regulations Assessment report will simply state that the project has paid into such a strategic mitigation scheme, and that no further assessment is needed on that particular issue.

While we welcome legislative reforms that promote both nature recovery and housing development, we emphasise the need for these changes to be driven by robust evidence. The success of DLL for great crested newts does not guarantee similar outcomes for other species or groups (for example those that may be heavily reliant on particular sites, which would not be picked up in the absence of site-based survey and assessment, and could potentially lead to local extinctions).

Delays related to protected species are often multifaceted, with one issue being the late commissioning of ecological surveys. When surveys are integrated into the project design phase, ecological impacts can often be avoided or mitigated early on. Another major issue is the lack of capacity/competence in Local Planning Authorities to make decisions regarding environmental impacts in a timely way.



## **Q8. Which environmental obligations do you feel are most suited to the model set out in the working paper, and at what geographic scale?**

### **Explanation (3000 character limit):**

CIEEM is supportive of amendments to existing legislation provided that existing levels of environmental protection enshrined in law are preserved or improved. However, legislation alone is unlikely to deliver improved nature recovery if it is not supported by more effective planning practice guidance, more effective national and local planning policy, and greater funding for statutory agencies and Local Planning Authorities to recruit the expertise and talent in numbers to meet the increasing quantity and complexity of its case load.

The strategic approach proposed in the Working Paper could help to address the negative environmental impacts that arise from multiple sources requiring a multi-stakeholder approach (for example recreational pressure, air pollution and water pollution); such an approach is likely to be most effective at addressing effects that occur at larger catchment scale/district-level spatial scales. CIEEM suggests that a catchment-wide approach should be used for any obligations related to water quality, nutrient neutrality, and habitat fragmentation/connectivity, ensuring ecological processes are considered holistically in a broader natural capital context. Environmental regulation, with protections at least as strong as those under the Habitat Regulations, must remain essential to prevent further environmental degradation and biodiversity loss. At present, the Habitats Regulations require confidence that any mitigation measures will work, before any reliance is placed upon them. If therefore the Government is to live up to its commitment in the King's Speech to avoid any regression on environmental protections, any reliance on Delivery Plans to enable development to proceed can only occur after the Delivery Plan in question is sufficiently well evidenced for there to be a very high level of confidence that it will work as intended. However, there are opportunities to design strategic approaches that not only safeguard nature but actively enhance it whilst reducing delays faced by developers.

The Habitat Regulations ensure that development proceeds only when it is certain to avoid harm to protected sites or species, except in cases of overriding public interest. These protections must remain central to the planning process to prevent regression in environmental standards and to support nature recovery.

These regulations, or regulations of equal level of protection, must remain central to the development process to prevent backsliding on environmental protections and progress on nature restoration.

Project-specific ecological assessments should remain mandatory and not be replaced by Strategic Delivery Plans as such plans do not provide the same level of site-specific scrutiny and run the risk of arbitrarily removing local place-based solutions where these can work well, for example, through BNG. CIEEM does not consider that removing the requirement for site or project-specific assessment is necessary to reduce the burden of process on developers, as the mere existence of an 'approved' Delivery Plan will do this, as a project level assessment can then simply 'point' to the fact that a particular impact has already been addressed by the Delivery Plan in question, and that the project intends to make the required proportionate payment into the Nature Restoration Fund. This is already done in areas served by, for example, nutrient neutrality or recreational mitigation

strategies, or DLL for protected species. Maintaining the requirement for a project-level assessment simply ensures that any impacts of a project that may have been unforeseen at the time the Delivery Plan was developed will still be picked up and addressed. A new Strategic Delivery Plan approach should ensure that obligations for nature recovery are designed with a local, regional and national scale, with clear timelines and measurable environmental gains. Additionally, LNRSs should be expanded and enhanced, remaining a key component of local biodiversity planning, where obligations for restoration are specifically tailored to the local context to tackle local and regional environmental priorities. LNRS should also have a role in identifying opportunities where a strategic approach to nature recovery would be appropriate, and would be highly effective if utilised by Planning Authorities in the creation of Local Development Plans, being used to identify areas of critical land use and places for development and nature to coexist.

As stated, while CIEEM supports a strategic approach in specific cases with a strong evidence base, we are concerned about its broader application to species-specific issues, particularly given the lack of clarity in the current Working Paper. Species ecology is complex, and a one-size-fits-all approach (for example, DLL for great crested newts) is unlikely to work for all species/groups or, at the least, requires significant further research before a policy decision is made. It must not be assumed that the DLL model for great crested newts can be automatically applied to other protected species, without further research and input from species experts.

We urge Defra to establish clear, transparent criteria for incorporating additional legal requirements into the strategic approach, based on independent scientific advice and evidence from pilot projects. Without site-specific mitigation, development often harms protected species or other important ecological features. Further research is needed to assess whether replacement habitats can effectively offset losses, as success varies by species. Some, like bats (which are in fact an assemblage of 18 different species – each with differing habitat requirements), may struggle to adapt, risking local extinction. More species-specific research is essential before this approach can be applied to other species.

Finally, particular attention is needed when addressing effects upon irreplaceable habitats (such as ancient trees, ancient woodland/grassland and peat bogs) and other critical natural capital which are difficult to restore or recreate. For example, a [recent study](#) from Forest Research and the University of Reading has identified policy priorities and a new collaborative online land use planning tool to address development impacts on Ancient Woodland. Mitigation and compensation are not suitable for these habitats, so further clarity is needed on how Delivery Plans will address this.

## **Q9. 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?**

### **Explanation (3000 character limit):**

CIEEM questions the assertion in the Working Paper that certain existing policies/strategies (for example, LNRSs) are automatically a suitable proxy for Delivery Plans. Such existing strategies were written before the conception of a Delivery Plan and are focused on general opportunities for enhancing and restoring biodiversity – they do not and were never intended to identify the particular measures needed to mitigate the impact of any species development.

There is uncertainty about which public body or Government department will arbitrate in the scenario when different Delivery Bodies and Delivery Plans have competing requirements, and what the scope of their power/jurisdiction will be.

Any confidence in the Strategic Delivery Plans delivering the necessary improvements for nature depends on an objective, evidence-led process being followed to draft such Plans, and that the Mitigation Hierarchy principle underpins the compliance criteria within the Delivery Plan.

Referencing the aspirations of the Working Paper to “*give delivery partners the tools they need to generate positive outcomes for nature, empowering them to make the right choices to deliver nature recovery*”, CIEEM reiterates that this would require engaging professionals with the appropriate expertise and experience in any Delivery Plan development – and that to support this will require adequate funding for the public sector roles involved.

As laid out in the Habitat Regulations, any measures to address harm to designated sites must be shown to work before being approved. If this basic principle is abandoned, it runs the risk of creating an unacceptable regression of environmental standards, and could breach the Government’s international obligations for nature recovery. Especially as the Working Paper envisages that compensation for harm to the environment would come under Strategic Delivery Plans and proposes removing site-specific surveys which are of vital importance to ongoing efforts to restore nature. The Environment Act clearly states that “*A Minister of the Crown must, when making policy, have due regard to the policy statement on environmental principles currently in effect.*” – which includes the polluter pays, prevention at source, and precautionary principles.

The Working Paper appears to envisage that a developer can proceed to gain consent and build their project after making an up-front payment to the Nature Restoration Fund in the event that their project might otherwise impact an important ecological feature, and that, at least at first, this will occur prior to a Delivery Body being appointed, developing a Delivery Plan and then utilising money in the Nature Restoration Fund to deliver the required mitigation. This raises several concerns that need to be addressed, such as:

- If the Delivery Body cannot deliver the required mitigation for some years, then there will in the interim be a cumulation of new projects causing harm, and a ‘time lag’ during which impacts on the important ecological feature will get worse before they get better. How will there be confidence that this harm will not lead to irreparable damage?
- What happens if the Delivery Body is unable to secure the required measures?
- How will the Delivery Body know what to charge a developer, if the cost of the mitigation measures has not been accurately forecast (or if they change)?
- How will any over- or under-charging of developers be rectified?

Nature conservation takes place at all spatial scales, even at the site-level, driven by site-specific surveys and site-specific mitigation, compensation and enhancement. Removing this principle entirely through Strategic Delivery Plans risks removing the opportunity for great place-making to occur at the local level and misses opportunities to engage more people in nature local to where they live. [Access to local nature is critically important to human wellbeing](#) and could play a greater role in decreasing the increasing strain placed on public services like the NHS from an ageing less-

healthy population. Creating strategic nature recovery projects at locations which are [distant from local communities is inequitable and could exacerbate existing inequalities](#). Creating strategic nature recovery projects at distance presupposes that there are no existing barriers to local communities utilising fully-functional sustainable modes of transport to reach nature, and are motivated to go further to access good quality wild greenspace.

The Working Paper suggests a universal rollout of DLL for protected species mitigation. Whilst clearly applicable to some species, DLL is not a blanket solution suitable for all species or species groups and no evidence has been presented to suggest otherwise. For most if not all projects and species, an approach that considers site-specific baselines and applies the Mitigation Hierarchy remains essential. This is particularly critical where significant impacts cannot be mitigated through landscape-scale interventions (for example, the destruction of dormice nests). Additionally, site-specific assessments are vital to account for the effect of multiple local impacts at the landscape-scale.

Additionally, the Working Paper indicates that the Competent Authority's Habitat Regulations Assessment (HRA) or adopted shadow HRA (SHRA) should only consider impacts outside of the scope of an adopted Delivery Plan. Additionally, the delivery of appropriate mitigating or compensatory measures lacks clear timescales for implementation and it is unclear how a standardised suite of mitigation and compensation measures in the Delivery Plans will be sufficiently nuanced to address impacts at a range of spatial scales. This could undermine the conservation objectives of internationally designated statutory sites (SAC, SPA and Ramsar) if projects proceed before mitigation measures are implemented, or where securing the appropriate mitigation is delayed.

Fundamentally, Delivery Plans must ensure they retain the Mitigation Hierarchy as the mandatory framework for all development projects. Delivery Plans must first avoid impact, then minimise impact, and only as a last resort, compensate for losses that cannot be avoided. However, as we have already stated, displacing nature recovery projects to strategic locations at distance from site is inequitable for local communities' access to nature requirements.

Providing adequate resources and mechanisms for long-term monitoring and enforcement is a critical component of ensuring that environmental outcomes are actually being achieved through the Delivery Plans, and if not then a powerful clawback and enforcement mechanism kicks in. All too often it is the experience of our members that little funding or support is allocated for the long-term success of nature restoration. Delivery Plans must include clear, actionable timelines for when environmental gains will be achieved, and crucially, who will be responsible for ensuring actions are taken. Aligning Delivery Plans with existing LNRs will help co-deliver nature recovery priorities alongside development. Referencing the Working Paper's aspiration to "*establish a robust and transparent framework to monitor delivery of environmental outcomes*" will require significant additional funding to support the relevant expertise to carry out this monitoring and feedback – and hence critical in understanding whether these processes are achieving their aims, or require adapting in order to do so.

We would strongly advise against appointing the 'Delivery Body' (e.g. Natural England or the Environment Agency) as the sole organisation that authors new Delivery Plans, determines the effectiveness of new Delivery Plans prior to their adoption and then monitors and reports on performance. There must be a 'separation of powers' and roles to prevent scenarios where Delivery Plans that could actively result in

environmental degradation (not a 'win-win' scenario) are pushed through rapidly, due to lack of oversight or pressure for expediency. In our view, a body other than the Delivery Body must examine each Delivery Plan and satisfy itself of its effectiveness, before it is adopted (particularly if such adoption negates the need for downstream project level assessment). Further scrutiny is needed during the monitoring phase, so that there can be confidence and transparency when the effectiveness of the Delivery Plan is judged and any necessary remedial measures introduced. Additionally, a separation of powers would also lessen the workload on delivery bodies, which are already under significant strain from the capacity crisis and skill shortages.

We strongly recommend that the proposed approach is re-evaluated, and a proposal is brought forward that would allow for concerns or challenges to be raised through the process of creating and delivering Delivery Plans, to ensure that Strategic Delivery Plans are effective at both achieving economic growth and environmentally beneficial outcomes. Additionally, a separation of powers would also lessen the workload on delivery bodies, which are already under significant strain from the capacity crisis and skill shortages.

Finally, we suggest that the short-term focus must be on adopting Delivery Plans which already have an existing, strong evidence base to tackle environmental issues (for example, Nutrient Neutrality). However, many other environmental issues will take longer to solve using Delivery Plans, and require a robust, credible evidence base to be built before they are implemented. Fortunately, Responsible Authorities and Supporting Authorities for LNRs are in an excellent position to work alongside the Government to devise appropriate strategic solutions, given the breadth of data already gathered for the LNRs process and level of engagement from landowners.

## **Q10. Are there any additional specific safeguards you would want to see to ensure environmental protections and / or a streamlined developer experience?**

### **Explanation (3000 character limit):**

To safeguard the environment while supporting growth, the core principles of the Habitats Regulations, Wildlife & Countryside Act, and other key legislation must be upheld in any new laws. The case for legal changes is unclear, as existing legislation already allows for strategic flexibility.

We therefore recommend that, instead of introducing new legislation, that the Government utilises and fully implements existing legislation to its fullest extent to achieve its strategic objectives, and find 'win-win' scenarios for nature recovery and economic growth. This would include fully delivering the Section 40 duty of the Natural Environment and Rural Communities Act 2006 (NERC Act) as amended by the Environment Act 2021, which extended the biodiversity duty on public authorities to include the enhancement of biodiversity alongside conservation. In order to demonstrate enhancement, a baseline will be needed – at whatever scale.

As in our previous answer, the Mitigation Hierarchy must be maintained as an integral principle of development which impacts upon the environment. The Government could aid in the restoration of nature by implementing safeguards specifically for the long-term monitoring and protection of environmental obligations linked to developments as a component of the Strategic Delivery Plans, as well as ensuring early engagement with ecologists, planners and regulators to streamline development projects.

It is also critical that the list of irreplaceable habitats as set out in the [Biodiversity Gain Requirements \(Irreplaceable Habitat\) Regulations 2024](#) is updated and enshrined within any new approach, so that imperative reasons of overriding public interest (IROPI) would be required for any loss or damage to these habitats.

### **Q11. 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

No

Maybe

#### **Explanation (3000 character limit):**

Without significant levels of public funding being invested in central and local Government, CIEEM questions the assertion in the Working Paper that the state will be capable of delivering the approach proposed without significant input from the private sector, and from NGOs and the public.

As will become apparent through the recently released England Land Use Framework consultation, the responsible and sustainable ownership and utilisation of land is a complex, multi-faceted issue involving many stakeholders. Third parties will therefore be crucial in delivering better outcomes for nature and society. For third parties to continue supplying nature services however, consistency and clarity is required, and we are unsure that presenting new legislation on top of the existing LNRS, BNG, Conservation Covenants etc. will promote their cooperation.

Private sector involvement in Nutrient Neutrality schemes and strategic licensing has been successful so far, for example, in the case of [DLL for great crested newts](#).

Clear governance is essential to prevent conflict of interest; to prevent Delivery Bodies and other existing public bodies from acting as both regulator and Delivery Body. While Natural England or other bodies may sometimes develop and implement Delivery Plans, they should commission work to inform, implement or monitor Delivery Plans from local authorities, private providers and environmental NGOs. The proposed approach should set clear roles and administrative/jurisdictional boundaries for Delivery Bodies and a clear and transparent mechanism for enforcing and reporting on compliance with the approach. We suggest that Government supports the development of a delivery standard for third party providers.

For third party involvement to continue to be effective, particularly in the case of habitat banks, clear guidelines are needed on the stacking and bundling of biodiversity credits, as there is currently a lack of clarity on how this system should work. Additionally, habitat banks are not equally distributed across geographic regions, and as such, certain areas are less able to take advantage of localised concentrations of technical expertise or land availability. There is also no certainty that the habitats available from habitat banks will in reality represent the particular measures needed to mitigate the impacts from proposed development (for example in the case of Nutrient Neutrality, mitigation typically relies either upon decommissioning an existing polluting land use, or creating 'interceptor' habitats along key watercourses, to filter out and remove pollution – there is no direct link between these requirements and the routine 'off the shelf' availability of habitat types in habitat banks that may or may not be located in the right place.

## **Q12. How could we use new tools like Environmental Outcomes Reports to support the Model set out in the working paper?**

### **Explanation (3000 character limit):**

Although we welcome an outcome-focused and target-driven approach, the Working Paper fails to set out what the scope and content of the proposed Environmental Outcomes Reports will be. It is therefore difficult for CIEEM to make meaningful comment on their likely efficacy, compared with the existing regime of Environmental Impact Assessment (EIA), Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA), and their associated reporting requirements.

The [Office for Environmental Protection has identified a number of barriers](#) to the effective implementation of environmental assessment regimes, notably, access to information, the level of monitoring (post-decision), evaluation, reporting and access to expertise.

Environmental assessment, including Environmental Impact Assessment (EIA), Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA), are required by existing legislation and are necessary for the gathering of detailed information on potential environmental impacts of developments that are large/complex or impact sensitive landscapes. The assessment processes allow for detailed information to be provided into the public domain in a transparent manner, and therefore better decision-making (due to being evidence-based). Improving how regulations relating to EIA, SEA, and HRA are implemented could increase results that are positive for nature, and make 'win-win' scenarios easier to achieve when interacting with the planning system.

Working on the assumption that the current Government envisages Environmental Outcome Reports to operate in a broadly similar manner to that expressed in the consultation run by the previous Government in 2023, if progressed, Environmental Outcome Reports could support Delivery Plans by highlighting where and how development can be delivered in a manner that minimises the need for environmental or ecological mitigation in the first place (and hence limit the need for Delivery Plans to be implemented in order to unlock development). However, Environmental Outcome Reports will only be effective at doing this if they are properly informed by environmental and ecological data and robust assessments. If they are not informed on such a robust and credible evidence base, then Environmental Outcome Reports will likely not be successful in empowering environmentally-positive land use planning decisions to be made, and will by extension 'lock in' poor decisions earlier on in the planning process. This could be dangerous if the ability of project-level assessments to identify and address these impacts has also been weakened. The key principle that should be followed is that if more decisions are to be 'front loaded' in the planning process, then the collection and analysis of ecological information must also be frontloaded, so that those decisions are well informed and effective.

## **Q13. 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.**

### **Explanation (3000 character limit):**

The Working Paper asserts that the Nature Restoration Fund and Delivery Plan-based approach will go beyond the mitigation of impacts to provide environmental enhancement, which it asserts the current planning approach has failed to achieve. We consider this to be misleading as, until the introduction of BNG last year, the planning process was focused on achieving 'no net loss' of biodiversity (i.e. mitigating impacts) and not on delivering enhancements or recovery.

Further to this however, the Working Paper asserts that these additional enhancements to the natural environment will be delivered at no greater cost than the status quo, without presenting any evidence for this. Whilst we understand the principle that a strategic approach may yield 'economies of scale', we would suggest that more evidence is needed that new enhancements can actually be delivered on top of environmental mitigation, without additional costs being levied on developers.

Furthermore, ongoing change to policy and legislation creates uncertainty which could actually slow down development in the short term as developers adjust to new requirements, but also if developments are put on hold as developers wait for a revised process. This would appear to be an argument to fast track changes as quickly as possible, but which would be a mistake without a robust evidence base for change.

It is important that any proposals taken forward to amend legislation or policy do not inadvertently place greater impediments on other sectors involved in land management and nature recovery, such as the forestry and agricultural sectors. These sectors may also need planning consent to help actively manage their land for all the natural capital benefits it would provide, and more affordable rural housing on/near to the land they work.

We strongly recommend that the proposed new approach presented in the Working Paper is re-evaluated, and a proposal is brought forward that would allow for concerns or challenges to be raised through the process of creating and delivering Delivery Plans, to ensure that Strategic Delivery plans are effective at both achieving economic growth and environmentally beneficial outcomes.

Currently, the text separates out biodiversity improvements and water quality improvements, we recommend that the Working Paper references improvements to biodiversity in terrestrial, aquatic and marine habitats, so that water quality is not the only focus for these habitats. Biodiversity improvements for aquatic habitats should include restoring natural functioning including the physical habitat, the riparian habitat, hydrology, water quality and native biological assemblages. This applies to all water and wetland habitats (lakes, rivers, coastal boundaries etc.).

Although not our area of expertise, it would appear that the Working Paper proposals would disincentivise retrofitting and reuse of existing housing stock to provide better housing for local people.

CIEEM would suggest the following as additional measures to augment the approach proposed and deliver better outcomes for nature and society, in a development planning context:

- Ensure that CIEEM and other relevant bodies are involved in the development of planning policy and not just consulted on it. It is CIEEM members and others who will need to deliver it, and can therefore offer constructive feedback on development of new proposals right from the start.
- Provide more funding for each Local Planning Authority to recruit the talent and expertise in numbers that it needs to meet an increasing quantity and complexity of case load and legal duties.
- Provide technical training on development planning policy and ecology for local councillors who sit on planning committees.



- Develop and implement a robust accreditation scheme and strict code of conduct for private sector consultants to provide technical expertise to Local Planning Authorities and Delivery Bodies.
- Produce greater breadth and depth of specific [design codes](#) and a mechanism to enforce use. In particular, produce a design code for nature recovery that could inform the content of Delivery Plans. For example, revisit and enhance design codes from the [Government Property Agency](#) to cover all development, not just publicly owned sites.
- Produce greater breadth and depth of planning practice guidance (and greater clarity in existing guidance) on what is expected to be in a planning application, including detailed guidance on demonstrating a suitably robust options appraisal stage has been completed to justify the preferred site/design solution taken forward, on a sliding scale of effort depending upon size, type and complexity of development.
- Develop an online, collaborative, spatially-explicit tool for Local Planning Authority technical officers, consultees, developers and their consultants to co-design the masterplan for strategic/large/complex development proposals.
- Develop a centralised database that collates a standard suite of metrics on planning applications consented and rejected and why, to build up a better picture of what the main reasons are for refusal/'blockers' for planning consent.
- Depending upon size, type of development, magnitude of impact, develop clear guidelines for a sliding scale of pre-application requirements for planning applications.
- Allow applications for protected species mitigation licenses to be applied for at the same time as planning applications.
- Provide policy guidance which clearly sets out the threshold of ecological impact below which further detailed survey information is not required because the risk of significant negative effect can be ascertained with reasonable certainty.
- Revisit the [Law Commission Review of Wildlife Legislation \(2014\)](#) to explore alternative ways to streamline nature legislation.
- Start an initiative to get Local Planning Authority officers, consultees, developers and their consultants in the same room talking about the issues they face; to break down the invisible fence that exists between both sides of the planning process.
- Start a national conversation about the value and importance of nature recovery, development planning and good place-making so that the public are motivated to be involved in influencing Local Plans much earlier in the plan-drafting process.

CIEEM reiterates our offer to work with the Government to find the win-win solutions for nature recovery and development that we know are possible.