

CIEEM Comment on the Planning and Infrastructure Bill 2025

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Introduction

As we have previously highlighted, the core principle behind the Bill – identifying environmental challenges early and addressing them proactively through state-led intervention – could, in theory, be a positive step towards the government’s twin goals of streamlined delivery of critical development and better outcomes for nature. However, the execution of this concept is critically flawed. As currently drafted, the Bill threatens to cause unnecessary and irreparable ecological harm while simultaneously imposing additional costs, uncertainty and delays on developers due to the uncertainty around the nature and scope of the proposed Environmental Delivery Plans (EDPs).

It is evident that the broad consensus of concern raised by a wide range of environmental professionals, professional bodies, NGOs, learned societies and developers in response to the Planning Reform Working Paper have been entirely disregarded in the Bill drafting process. Despite the feedback provided by CIEEM during the limited consultation period between December 2024 and February 2025, as well as the collective input from multiple environmental stakeholders, no meaningful inclusions have been made to address the significant issues identified. This failure to engage with expert opinion is deeply concerning and should be of grave concern to parliamentarians of all political persuasions.

Whilst the Bill effectively overrides the need for Habitats Regulations Assessments, European Protected Species Licenses, consideration of Wildlife and Countryside Act species protections and Badgers Act protections, the Bill is unclear on how the process interfaces with the Environmental Impact Assessment process nor with the public body biodiversity duty. This creates further uncertainty for ecological practitioners, for developers and local planning authorities (LPA). For example, in pre-application engagement where the ecologist might typically seek to agree the scope of survey and assessment approach with an LPA for validation/determination, how will the LPA (or developer or advising ecologist) know whether an EDP will be available and how will that affect the approach to baseline surveying and assessment? This creates even more uncertainty.

Further compounding the issue, the Government has introduced the Bill without a robust evidence base. The Regulatory Policy Committee (RPC), an independent body responsible for assessing the soundness

of new legislative proposals, has stated that it is behind schedule in evaluating the impact of the Bill. Crucially, the Government submitted its impact assessments before the consultation period had even closed, effectively precluding any meaningful consideration of stakeholder feedback. These assessments have not been published, leaving the public and experts alike in the dark regarding the evidence – or lack thereof – underpinning the Bill.

In short, the Government has been late in submitting its own impact review, has ignored critical input from the environmental sector, and has presented a Bill that is fundamentally unsound. The lack of transparency, and the failure to follow an objective, evidence-led, democratic process which includes incorporating expert advice is reckless and raises serious concerns about the long-term consequences of these legislative changes.

The introduction of the Bill before the consultation ends on the England Land Use Framework further demonstrates a concerning lack of vision and clarity by the Government on the overall approach to land use planning and nature recovery.

The proposed Planning and Infrastructure Bill, whilst containing some important principles which would be of benefit to both the economy and the environment, is currently significantly flawed and needs an urgent rethink. CIEEM would welcome the opportunity to work with the Government and other stakeholders to improve the Bill such that it can deliver the multiple benefits it is being designed for.

Key Concerns and Issues

1. Pay to Pollute System

- The proposed primary legislation prioritises the economic viability of development over environmental mitigation, potentially leading to severe underfunding of both the mitigation needed to minimise environmental damage and the actions needed to restore damaged ecosystems. Furthermore, the Bill asserts its intention to go beyond mitigation of environmental harm (i.e. what is currently expected of developers) to deliver overall improvement in environmental features, but there is no evidence that the economies of scale achievable through pooling resources into an EDP will be sufficient to deliver the cost efficiencies needed to fund these extra measures. This may mean either that improvement does not occur or that in practice costs for developers will rise.
- The over-emphasis on an approach at the highest possible strategic level is likely to miss key opportunities to deliver impactful and nuanced solutions to address unique local issues, which could be addressed, for example, through Local Nature Recovery Strategies (LNRS).
- There is no incentive for developers to incorporate on-site biodiversity measures as part of a wider green infrastructure-led approach to site masterplanning and design – instead, they offset impacts remotely, further disconnecting local people from nature and reducing local environmental benefits. This could lead to an overall decline in urban biodiversity, negatively affecting community well-being and ecosystem services.

- The system does not actively drive environmental recovery but instead serves as a reactive measure that only addresses impacts when deemed cost-effective, rather than proactively preventing environmental degradation through good site selection and design. This undermines efforts to create resilient ecosystems and mitigate climate change and it is therefore questionable how the Bill will therefore secure ‘improved environmental outcomes’ if a developer can claim it is not cost-effective to do so.
- The levy functions as a financial mechanism that allows developers to continue harmful practices without substantial accountability or commitment to sustainable development. Without clear enforcement measures, developers may prioritise financial gain over genuine environmental responsibility.

2. Impact on Developers

- The system creates significant uncertainty and increases costs, making planning slower and more complex rather than streamlining the process. The considerable lack of clear guidance on levy rates and implementation (i.e. how the proposals interact with existing legal requirements, processes and administrative functions relating to planning and nature protection) could further delay development timelines.
- It is unclear how long it will take for the development of an EDP, and what the arrangements will be in the interim.
- Many developers aim to integrate nature into their projects for branding, sustainability and public trust; this levy removes their ability to do so by mandating financial contributions rather than on-site solutions. This may discourage innovation in sustainable building practices and green infrastructure.
- Developers will be required to pay for Environmental Impact Assessments (EIA) or Environmental Outcome Reports (EOR) in addition to the levy. Unless the levy rates are very cheap, which would have poor outcomes for nature, the combined costs will significantly increase project costs and make it financially prohibitive for smaller developers; the likely effect is that the developer market will shrink to become dominated by a limited number of large companies.
- Public trust in developers who actively seek to build with nature is further eroded, as they are seen as simply paying for damage rather than contributing to environmental improvement. This could lead to reputational damage and increased resistance to new development projects.
- The levy does not provide a clear framework for how developers can be rewarded for best practice, discouraging proactive environmental stewardship in favor of regulatory compliance. Without incentives, developers may view environmental considerations as a burden rather than an opportunity for innovation.
- The added financial burden could lead to increased housing and infrastructure costs, affecting affordability and economic growth. This is particularly concerning in the context of housing shortages and economic instability.

3. Lack of Monitoring and Enforcement

- There are no secure, transparent monitoring mechanisms in place to ensure the proper use of funds collected through the levy. Without independent audits, funds could be misallocated, leading to ineffective conservation efforts and wasted resources.
- There are no robust enforcement provisions to guarantee that the intended environmental goals are met, making the effectiveness of the system questionable. This creates opportunities for regulatory loopholes that could be exploited by developers and government agencies.
- Previous government levies, such as the Water Restoration Fund and Community Infrastructure Levy (CIL), have historically been underspent and poorly managed, raising concerns about the potential inefficacy of this approach. Lessons from these past failures have not been incorporated into the new levy system.
- Natural England's track record with District Level Licensing for Great Crested Newts suggests similar delivery challenges, as previous schemes have faced delays and unclear outcomes. This raises concerns about whether Natural England has the capacity to oversee an expanded role effectively without significantly increased levels of investment for Natural England to recruit and resource delivering its greatly expanded role.
- Without clear accountability measures, funds could be misallocated, leading to ineffective conservation efforts and wasted resources. Public scrutiny and transparent reporting mechanisms are essential to build trust in the system.

4. Flaws in Ecological Strategy and Impact on the Ecological Sector

- The Bill is certainly a regression on current levels of environmental protection. At present we have 'tiers' of protection, with features of International, National and Local importance all treated differently in the planning system according to their importance, and with features in the top tiers subject to very strict tests (for example, no adverse effect on integrity either alone or in combination with other plans and projects). This will all be lost under the new system, with features of all levels of importance now simply lumped together in one new category (environmental features), that is only subject to one very loose test (that the Secretary of State must be satisfied that there will be an overall improvement, even if that improvement is delivered 'elsewhere'). This clearly significantly weakens the protection afforded to top tier features and is undoubtedly a regression in environmental protections.
- Once an EDP is 'made' by the Secretary of State, potentially harmful projects can proceed, but without anything in the Bill requiring Natural England to have the mitigation needed to stop that harm from occurring to be in place before the negative impact is permitted to occur. This will create a temporal loss and undermine ecological integrity.
- There is no recognition in the Bill of concepts such as critical natural capital or irreplaceable habitats – so there is potentially nothing stopping EDPs from being used to cause the wholesale loss of ancient woodland in exchange for an 'overall' improvement in, for example, woodland cover.

- The implications of the Bill is that the mitigation hierarchy (avoid, mitigate, compensate) will be circumvented, contradicting long established, internationally recognised and ‘tried and tested’ environmental best practice and leading to inadequate conservation outcomes. This weakens the ability of the system to prevent environmental harm at its source.
- The Bill fails to acknowledge ecological realities – if species become locally extinct due to development, simple mitigation measures like bird boxes or tree planting will not restore populations. Comprehensive habitat restoration (and in some instances, species reintroduction programmes) – along with the necessary funding – are necessary for meaningful biodiversity recovery.
- The approach enforces a false dichotomy between economic growth and environmental protection. Economic prosperity and ecological stewardship must go hand in hand as highlighted by several landmark Government-commissioned reviews on the economics of natural capital, biodiversity and society – a healthy functioning society is dependent upon a healthy functioning natural world, not separate from it.
- The impact of recent Government rhetoric that the environment is not important is considerably undermining the integrity of those currently working in the environmental sector, damaging the economy by lowering morale, and stifling recruitment into the environmental sector.
- The over-emphasis on the highest level of strategic approach to nature protection/recovery removes the requirement for detailed site-surveys and site-specific assessments by experts. This removes vital granular detail needed for meaningful mitigation and interventions.
- The long-term sustainability of biodiversity is not adequately addressed, as short-term financial contributions are prioritised over longer term approaches to ecosystem health and resilience. This could lead to fragmented conservation efforts that fail to create lasting environmental benefits.
- The levy could inadvertently encourage a box-ticking mentality rather than fostering genuine ecological improvements. This could result in developers fulfilling minimum requirements rather than pursuing ambitious sustainability initiatives.

5. Concerns Over Natural England’s Role

- Natural England is both the regulator and the beneficiary of the levy, as well as the organisation handed responsibility for monitoring and reporting on the success or otherwise of EDPs , creating a significant conflict of interest that undermines confidence in the system. Independent oversight is necessary to ensure fair and unbiased decision-making.
- The current underfunding of Natural England could lead to funds being redirected to cover operational gaps rather than being used for actual mitigation projects. This would undoubtedly result in the failure to deliver meaningful environmental improvements.
- The organisation is already under-resourced (for example, struggling with existing licensing schemes), raising very serious doubts about its ability to manage an expanded role effectively. Additional funding and expertise are needed to enhance its capacity to oversee the levy system,

requiring significant levels of investment for Natural England to recruit and resource delivering its greatly expanded role.

- There is a lack of independent oversight to ensure that Natural England’s role remains unbiased and accountable. A transparent governance framework is needed to build public trust.
- Without additional resources, expertise and transparency, the expansion of responsibilities could lead to inefficiencies and failures in implementation, and potential for knock-on impacts on Natural England’s other functions. Proper strategic planning and resource allocation must be a priority.

6. Issues with Land Use and Spatial Planning

- The current lack of a Land Use Framework (currently being consulted on) could lead to the misallocation of land and resource depletion, reducing the effectiveness of environmental restoration efforts. A coordinated approach to land use planning is needed to ensure sustainable outcomes.
- Urban areas could be left devoid of green spaces, while rural areas become ‘nature reserves’ that are disconnected from the public, reducing the social and mental health benefits of accessible natural spaces – this should be of deep concern to the Government given the immense pressures already facing the public health and social care systems in England. Equitable distribution of green infrastructure is crucial for community well-being. Any removal of the need for site-based environmental assessment must be accompanied by an overhaul or enhancement of Building Regulations to ensure integration of green infrastructure into developments.
- The absence of stakeholder consultation increases the risk of poor land use planning decisions that do not align with broader environmental and social needs. Inclusive planning processes are needed to ensure balanced decision-making.
- Developers may be forced to pay the levy even when they could implement better on-site mitigation measures, leading to inefficient resource allocation and missed opportunities for site-specific biodiversity gains. Flexibility should be incorporated into the system.

7. Threat to Biodiversity Net Gain (BNG)

- There is a potential risk that BNG could be absorbed into the Nature Restoration Levy, reducing it to just another financial contribution rather than a strategic tool for ecological improvement. Clear policy distinctions are needed to prevent this.
- Without safeguards, BNG regulations could be weakened, allowing developers to bypass meaningful conservation efforts by prepaying for their environmental impact rather than implementing genuine on-the-ground measures.
- Beyond BNG, this new legislation could stifle natural capital markets more generally. The state-led Nature Restoration Fund (NRF) may act as a competitor to privately delivered natural capital

schemes, cooling the appetite to deploy new natural capital schemes. Government needs to encourage private investment in nature recovery.

Recommendations

1. Retain and Strengthen Existing Environmental Safeguards

- a. Ensure that the mitigation hierarchy is a requirement stated in the Environmental Delivery Plans to prevent unnecessary environmental damage.
- b. The Secretary of State's power to amend EDPs must be restricted such that amendments can only be made that would enhance benefits for nature.
- c. For a proposed development to access the EDP, the project must demonstrate adherence to the mitigation hierarchy and Imperative Reasons of Overriding Public Interest (IROPI) tests to avoid any weakening of existing protections currently afforded through the Habitats Regulations.
- d. Develop clear and accountable monitoring and enforcement mechanisms.

2. Improve Developer Engagement

- a. Allow developers the option to contribute to on-site mitigation and biodiversity enhancements rather than just paying into a centralised fund.
- b. Provide clear guidelines and certainty to developers to facilitate compliance.

3. Enhance Transparency and Accountability

- a. Publish the Government's evidence base behind the working papers and the Bill's introduction.
- b. Provide further details on how the proposals in the Bill interact with existing legal requirements, processes and administrative functions relating to planning and nature protection and enhancement.
- c. Establish a public and transparent reporting system for levy funds and their use.
- d. Ensure an independent oversight body monitors fund allocation and impact.
- e. Protect against funds being redirected to cover government budget shortfalls.

4. Interaction with the draft Land Use Framework

- a. Implement a clear spatial strategy to balance environmental, economic and social needs.
- b. Consider climate resilience and ecosystem connectivity in planning decisions.
- c. Give more weight to Local Nature Recovery Strategies in the planning system.

5. Consult with Stakeholders

- a. Engage ecological experts, developers, planners and local communities in shaping and refining the legislation.
- b. Review the impact of the Bill on current capacity in the environmental sector, on future retention in the sector, and on attracting future recruits into the sector.
- c. Ensure cross-government consultation to align environmental goals with development strategies.

6. Review Natural England’s Role and Capacity

- a. Assess whether Natural England has the capacity to manage the levy effectively.
- b. Ensure proper resourcing and support before expanding its responsibilities.
- c. Assess the feasibility of drawing upon the considerable resource and expertise that exists in the private sector to support implementation.

To reiterate and in summary, the proposed Planning and Infrastructure Bill, whilst containing some important principles which would be of benefit to both the economy and the environment, is currently significantly flawed and needs an urgent rethink. CIEEM would welcome the opportunity to work with the Government and other stakeholders to improve the Bill such that it can deliver the multiple benefits it is being designed for.

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