



# Amendments Briefing for the Planning and Infrastructure Bill

14 April 2025

The Government has introduced a Planning and Infrastructure Bill (England) that was laid before Parliament on 11 March 2025 and is currently working its way through the parliamentary process<sup>i</sup>. The Bill sets out to speed up development, whilst at the same time contribute to nature's recovery.

The Chartered Institute of Ecology and Environmental Management (CIEEM) is the professional body representing over 8,500 ecologists and environmental managers across the UK and Ireland. Our members include many who work directly with planners and developers – including as ecological consultants and local authority ecologists – to ensure that development can have positive outcomes for nature.

Disappointingly, there was little meaningful consultation or opportunity for the environmental sector to engage with the development of the Bill. The broad consensus of concern raised by a wide range of environmental professionals, professional bodies, NGOs, learned societies and developers in response to the preceding Planning Reform Working Paper were entirely disregarded in the Bill drafting process. Despite feedback from CIEEM, as well as the collective input from multiple environmental stakeholders, no meaningful inclusions were made to the Bill to address the significant issues identified. This failure to engage with independent expert opinion is deeply concerning and should be of grave concern to parliamentarians of all political persuasions.

As CIEEM has previously highlighted<sup>ii</sup>, the core principle behind Part 3 of 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 as currently set out in the Bill is critically flawed. As drafted, the provisions in the Bill are likely to cause unnecessary and irreparable ecological harm whilst simultaneously imposing additional costs and delays on developers due to the uncertainty around the nature and scope of the proposed Environmental Delivery Plans (EDPs).

CIEEM believes that the current weaknesses in the Bill are so significant that they would inevitably weaken environmental protections to the extent that the UK breaches national and international law. However, there are measures that could deliver benefit to both the economy and nature. 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 intended.

CIEEM has identified a number of priority amendments that we urge the Government to consider as a means of repositioning Part 3 of the Bill and avoiding the unlawful regression of environmental protections that are currently implicit in the Bill's current wording:

#### **Amendment 1: Irreplaceable habitats exemption**

Clause 50, page 84, line 27, insert new clauses after subsection (2)—

(3) An environmental feature identified in an EDP must not be—

(a) an irreplaceable habitat

(b) ecologically linked to an irreplaceable habitat to the extent that development-related harm to that feature or the surrounding site would degrade, damage or destroy an irreplaceable habitat.

(4) For the purposes of this section, "irreplaceable habitat" means—

(a) a habitat identified as irreplaceable under The Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024, or

(b) an ecologically valuable habitat that would be technically very difficult or impossible to restore, create or replace within a reasonable timescale.

*Explanatory notes:*

This amendment would clarify that an Environmental Delivery Plan cannot be created for irreplaceable habitats and would maintain existing rules and processes for their protection, including under the National Planning Policy Framework.

#### **Amendment 2: Delivering enhancements in advance of harm**

Clause 52, page 86, line 12, at end insert—

(10) An EDP must include a schedule setting out the timetable for implementation of each conservation measure and reporting results.

(11) The schedule must ensure that, where the development to which the EDP applies is likely to cause in Natural England's opinion any significant environmental damage, the corresponding conservation measures have resulted in an overall improvement in the conservation status of the identified features in advance of that damage, so that environmental benefits are delivered in advance so far as practicable.

(12) In establishing a schedule under (10) Natural England must take into account the principle that enhancements should ordinarily be delivered in advance of harm.

*Explanatory Notes:*

Specifying a timetable for EDP benefits: Requires an implementation schedule that guarantees EDP conservation measures deliver benefits, especially ahead of any irreversible environmental damage as determined by Natural England.

### **Amendment 3: Ensure an overall environmental improvement**

Clause 53, page 86, before subsection (1) insert—

(X) Natural England, having followed the mitigation hierarchy, may only decide to prepare an EDP for a protected feature if it can demonstrate that implementing conservation measures as part of an EDP would contribute to a significant environmental improvement in the conservation status of the relevant environmental feature at an ecologically appropriate scale.

*Explanatory Notes:*

Scope of EDPs: Natural England should be using the mitigation hierarchy to assess the appropriateness of the EDP itself in the first instance, before then limiting the preparation of EDPs to cases where proposed measures can demonstrably achieve significant environmental improvements in the conservation status of an environmental feature at an appropriate ecological scale.

### **Amendment 4: Improving the overall improvement test**

Clause 55, page 88, replace subsection (4) with—

“An EDP passes the overall improvement test if the conservation measures will be sufficient to significantly and measurably outweigh the negative effect caused by the environmental impact of development on the conservation status of each identified environmental feature and to achieve a significant environmental improvement.”

*Explanatory Notes:*

Strengthening Overall Improvement Test: Strengthens overall improvement test that conservation measures must significantly and measurably outweigh any negative impacts to improve the conservation status of identified features.

### **Amendment 5: Ensuring implementation of the mitigation hierarchy to development**

Clause 61, page 93, after subsection (2) insert—

(X) Natural England may only accept the request if Natural England is satisfied that—

(a) the developer has taken reasonable steps to appropriately apply the mitigation hierarchy, including by seeking to avoid harm wherever possible to the protected feature, and

(b) in the case of a plan or project affecting an irreplaceable habitat, a European Protected Species, or part of the National Site Network, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest.

*Explanatory Notes:*

A Mitigation Hierarchy Requirement: Ensures Natural England accepts requests only when developers have properly applied the mitigation hierarchy and justifies projects due to there being no alternative solutions and on imperative public interest grounds, especially for sensitive habitats.

## **Amendment 6: Remove the economic viability constraint**

Clause 62, page 93, replace subsection (2) with –

“In making the regulations, the Secretary of State must ensure that the overall purpose of the nature restoration levy is to ensure that costs incurred in maintaining and improving the conservation status of environmental features are be funded by the developer.”

### ***Explanatory Notes:***

The Nature Restoration Levy schedule must ensure that the cost of works for nature restoration and enhancement are covered by the developer, in accordance with the Polluter Pays Principle. The setting of the Levy schedule should act as a deterrent to developments that would have an outsized impact on the natural environment, redirecting them to locations with lower environmental impacts.

These proposed amendments align with the more general points made by Wildlife and Countryside Link (WCL) in their recent letter to ministers<sup>iii</sup> on behalf of over 30 environmental NGOs. CIEEM is a member of WCL and contributed to the drafting of the letter.

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, needs an urgent rethink to address the significant risks it inadvertently poses to both the environment and development.

Despite our concerns we do believe that the Bill has the potential to be redrafted so as to deliver significant benefits to developers, to planners and to the environment – a once in a generation opportunity to deliver the win-win situation we all want to see. With this aspiration in mind, CIEEM would welcome the opportunity to collaborate with Members of Parliament and the Government to ensure that the Planning and Infrastructure Bill can deliver on its promise to both speed up development and to enhance nature recovery.

## **Chartered Institute of Ecology and Environmental Management**

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<sup>i</sup> <https://bills.parliament.uk/bills/3946>

<sup>ii</sup> <https://cieem.net/cieem-responds-to-planning-and-infrastructure-bill/> and <https://cieem.net/current-and-past-presidents-letter-to-mps-regarding-the-planning-and-infrastructure-bill-2025/>

<sup>iii</sup> <https://www.wcl.org.uk/charities-challenge-ministers-over-planning.asp>