

# Briefing Paper: Solutions for the Planning and Infrastructure Bill

15 July 2025

## Executive Summary

The Planning and Infrastructure Bill (PIB) is presented as a ‘win-win’ delivery mechanism for speeding up both development and nature recovery. However, as currently drafted, it creates more complexity and, potentially, delays and costs for developers (including by undermining the private nature markets that developers rely upon), and poses significant risks to the UK's environmental protections, particularly through its expansive and vaguely defined Part 3.

While the ambition to streamline planning decision-making in respect of managing environmental impacts and contributing to strategic nature restoration is understood and applauded, the proposed approach is unacceptably broad and threatens hard-won protections for protected species, habitats and sites - and will likely not speed up the planning system.

These issues can be addressed by amending Part 3 of the Bill to limit its scope strictly to addressing diffuse pollution and cumulative environmental impacts (i.e. impacts that occur beyond a development site boundary and which may be exacerbated by a cumulation of many separate developments). The Bill should however explicitly exclude all matters related to protected species and, with the exception of diffuse and cumulative impacts as mentioned above, also to other forms of impacts on habitats and designated sites. This would allow for strategic solutions to genuine system-level issues without undermining core environmental safeguards.

Additionally, our suggested improvements to the operation of the current planning system and updates to the Habitats Regulations, as set out below, could be used to further improve both streamlined development and delivery of nature recovery objectives without risking environmental regression.

## **1. Restricting the Scope of Part 3 of the Planning and Infrastructure Bill**

One legitimate challenge that Part 3 of the PIB attempts to address is how to manage diffuse and cumulative environmental impacts that fall outside the scope of individual planning applications. For example, nutrient pollution in river catchments or increased visitor pressure on protected sites can arise from many small developments whose individual contributions are hard to quantify but collectively are significant. In these cases, the mitigation needed may be beyond the reach of individual (particularly small) developments. Environmental Delivery Plans (EDPs) could provide a useful tool for managing such issues – but only if narrowly defined and locally grounded – freeing up, for example, the tens of thousands of homes that have been held up by nutrient neutrality requirements.

Subject to the inclusion of some safeguards, we support the creation of EDPs to address these complex, system-level environmental challenges. However, the Bill currently allows EDPs to be used far more broadly, potentially overriding established protections for specific species, habitats and designated sites. This introduces unacceptable uncertainty for nature protections, but also for others including developers, investors, habitat bank providers, District Level Licencing providers, SANGs providers, etc. The Bill currently contains no requirement for EDPs to be underpinned by evidence, and the sole hurdle for their adoption is the Housing Secretary of State's opinion on their 'likely' efficacy. EDPs, as currently proposed, threaten to replace the safeguards of the existing planning and environmental regulatory framework, and in fact could lead to irreparable damage and loss.

We recommend that the Bill be amended so that EDPs can only be applied to clearly defined, large-scale environmental pressures – such as diffuse pollution, air and water quality, and recreational disturbance – and not to site-based biodiversity or legally protected species and habitats which can be addressed through other measures (some already available and others currently in development). In addition, the legislation should include clear definitions and exclusions to guard against future unintended application, such that the stated intention of the Bill to be applied as a scalpel rather than a sledgehammer is guaranteed.

EDPs, when applied appropriately, could offer a structured mechanism to support local authorities and developers in managing cumulative impacts. However, they must be linked to local plan processes, subject to public scrutiny and examination, and fully integrated with the existing mitigation hierarchy and Habitats Regulations.

To be effective and lawful, EDPs must have clearly defined objectives, delivery timelines, and enforcement mechanisms. The current draft of the Bill fails to provide such guarantees, and, as a result, it creates significant risks.

Furthermore, to ensure democratic oversight, we recommend that all secondary legislation enabled under Part 3 should follow the super-affirmative parliamentary procedure, ensuring it receives the same scrutiny as primary legislation.

## **2. Improving the Current Planning System**

The planning system, while not without flaws, can work effectively for both development and nature if it is properly funded and equipped with the right expertise.

One of the most pressing challenges is the lack of ecological input early in the planning process, which often results in inappropriate site allocations and avoidable ecological harm that becomes ‘locked in’ – hampering the subsequent swift delivery of those allocations by developers.

Ecological assessment and strategic data must be integrated at the outset of local plan-making – well before applications are submitted. This would enable better site selection, reduce risks for developers, help identify mitigation requirements early enough to enable their delivery to be embedded within the Local Plan, and improve outcomes for nature. Local Nature Recovery Strategies (LNRs) could serve as the foundation for this ecological baseline, but to be effective, they must be resourced, implemented, and embedded in the plan-making process. This approach could also include bringing information from potential offsite Biodiversity Net Gain (BNG) providers into local planning.

There is also a broader project to improve ecological and environmental data. Government needs to show leadership in bringing all stakeholders together to find a more coordinated approach to data collection and sharing, for example, to make ecological data available for everyone to use at the earliest stages of planning.

Competent, confident people are core to effective decision-making. We propose creating a new ‘Development/Planning Ecologist’ role with specialist training for ecologists working in development-related roles, whether for local planning authorities, ecological consultancy or Natural England. This specialist training would cover the practical and commercial realities of development and planning, to enhance understanding of how ecological decision-making can impact the viability of development schemes. It would embed a solutions-focused approach to working in partnership with developers to achieve growth targets whilst effectively managing – and enhancing – ecological features.

These ecologists would help bridge the gap between nature and construction, enabling more commercially aware and technically competent advice. They would also help to address some of the capacity issues within local planning authorities and Natural England. The role could be supported by CIEEM and others through tailored training, apprenticeships and mentoring. However, with Government funding for Level 7 apprenticeships recently cut, other alternatives will need to be explored.

Improving the quality and consistency of planning applications is also vital. Developers and their agents need better guidance on how to integrate ecology across disciplines at the design stage to prevent late-stage conflicts and costly delays. Nationally standardised validation checklists – which include biodiversity requirements – should be introduced to bring greater consistency and predictability across planning authorities. These could be integrated into the revised National Planning Policy Framework (NPPF) and linked to an updated version of British Standard 42020 (BS42020), which sets out best practice for ecological assessments in planning.

Another unrealised opportunity for accelerating development delivery whilst enhancing the natural environment in our view sits with Green Belt Reform. Contrary to common belief, much of the Green Belt is currently intensively farmed land with seriously diminished biodiversity, that is also inaccessible to the public for recreation and wellbeing purposes. If the five ‘purposes’ of the Green Belt listed under Paragraph 143 of the NPPF were revised to include a new objective to restore nature and improve access for the general public, we believe that this would help genuinely sustainable prospective development sites on the edge of existing settlements and service centres to come forward more easily, as they would be incentivised to demonstrate how they could support this new purpose of the Green Belt by implementing, driving and funding new publicly accessible nature restoration proposals on the edges of those settlements. This would help to drive a renaissance in the Green Belt, with land being brought back to life for both nature and people.

### **3. Reforming and Strengthening the Habitats Regulations**

The Habitats Regulations are often portrayed as a barrier to development, but in truth, they provide a vital legal framework for ensuring that development proceeds without irreversibly harming our most important wildlife sites.

However, there is room to improve how they are implemented. Too often, Articles 6.3 and 6.4 of the Habitats Directive are invoked reactively, when damage is imminent or already occurring, because Articles 6.1 and 6.2 – which require proactive conservation and restoration – have been neglected. Strengthening these proactive duties would help reduce the need for emergency interventions and enable more strategic land-use planning.

Natural England's capacity to deliver scientifically robust and proportionate decisions under the Regulations has declined in recent years due to under-resourcing, pay disparities, and the loss of experienced staff. Government needs to invest in developing – or directly recruiting – specialist Habitats Regulations and Protected Species experts in Natural England, supported by strong scientific credentials, to guide decision-making in high-risk or complex cases. This would increase confidence, reduce inconsistency, and enable more rational outcomes.

We broadly support reviewing and amending the Habitats Regulations to better emphasise the importance of scientific evidence and ensure that the high bar of confidence rightly expected under the Regulations is not over-interpreted. We should not however pursue amendments to the Regulations in a hasty or piecemeal way; rather we believe it would be more constructive for the sector to come together to explore any changes in a coordinated and inclusive manner as provided for under the Environment Act mechanism to make changes to Part 6 of the Regulations. This would help ensure that any proposals are robust, widely supported, and fully informed by the breadth of expertise across stakeholders. We believe this is the appropriate route for considering such amendments, allowing for due process, evidence-based decisions, and sector-wide input.

In summary, we support exploring amendments to the Habitats Regulations that enhance clarity, limit the burden of proof to its original intention, and promote evidence-based decision-making. However, we emphasise that any amendments need to be deeply scrutinised and accompanied by robust guidance and should be considered separately from the Planning and Infrastructure Bill.

## **4. Supporting Strategic Mitigation and Nature Recovery**

We also recommend that the Government re-engage with Environmental Net Gain policies more broadly. By revisiting how BNG, carbon sequestration, and ecosystem services can be delivered in an integrated way through better spatial planning and land use frameworks, we can unlock greater value from each hectare of land. Such an approach could help deliver the goals of the Environmental Improvement Plan and the Global Biodiversity Framework, including the 30x30 target.

## **Conclusion and Recommendations**

Part 3 of the Planning and Infrastructure Bill, in its current form, poses serious risks to the ecological integrity of England's planning system and fails to deliver benefits for developers. While its objectives are legitimate, the mechanisms it proposes under Part 3 are overbroad and poorly defined, risking unintended consequences for both biodiversity and development certainty. We strongly recommend that Part 3 be amended to focus solely on diffuse pollution and cumulative impacts, with all other types of impacts on protected species, habitats and designated sites explicitly excluded from its scope.

At the same time, there are many improvements that can be made to the existing planning system to better integrate nature and development. Investing in early ecological input, standardising validation processes, strengthening Natural England, and potentially improving the operation of the Habitats Regulations will all help to reduce delays and improve outcomes.

We call on the Government and Parliament to adopt a more targeted and collaborative approach to planning reform — one that enables development while securing nature’s recovery for future generations.

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