



## **Briefing**

# **What Part 3 of the Planning and Infrastructure Bill means for Developers and Constructors**

**August 2025**

## **Introduction**

Part 3 of the Government's Planning and Infrastructure Bill will radically reform the way in which the impacts of development on important natural habitats and species are managed through the planning system.

Designed to speed up development and reduce costs for developers, the underlying assumption behind this part of the Bill is that protection of important ecological features acts as a blocker. Despite this assumption being largely disproved, even in the Government's own impact assessment for the Bill, and despite the Office for Environmental Protection advising that the proposals will significantly reduce environmental protections, the Government is pressing ahead on the basis that this will be good for developers and deliver the growth that the country needs.

Of course, as ecologists and environmental managers, we are deeply concerned about the potential irreparable harm to vulnerable habitats and species and the loss of nature from people's doorsteps. But we are also concerned that Part 3 of the Bill will not deliver the benefits for developers that have been promised and will place construction companies in an invidious position as they seek to deliver the development.

In conversation with developers and construction companies it is clear that some are starting to realise the potential consequences. We have therefore produced this briefing note to summarise the adverse implications of the proposals as contained in the Bill at the end of July 2025, noting that future amendments may exacerbate or ameliorate these concerns.

## **Summary of Concerns.**

### **1. Greater Complexity In The Planning System For The Foreseeable Future**

The Bill enables Natural England to bring forward Environmental Delivery Plans (EDPs) for protected ecological features or species which could be adversely impacted by development within a specific area. The areas are not defined and will vary – they could be at a sub-local authority, local authority, catchment, sub-regional, regional or even national scale. Nobody knows. Depending on the likely adverse effects of their development, developers will be able to choose to pay a levy into a new fund called the Nature Restoration Fund (NRF). The NRF will then be used to fund conservation measures that will be taken by Natural England to offset the impacts of development, without the need for the developer themselves to avoid or mitigate the harm that the development causes. Natural England will use the monies in the NRF to deliver conservation actions summarised in the EDP that are designed to compensate for the damage caused. The compensation may be delivered within the area covered by the EDP, or may be delivered elsewhere, including outside the local authority or catchment

area. However, the money in the NRF must cover not only the cost of habitat creation or restoration elsewhere but must also cover Natural England's costs in administering the scheme and the costs of any remedial action if the conservation actions do not work.

In some circumstances, paying into the NRF rather than avoiding or delivering mitigation for the adverse effects (which may be a cheaper option) will be mandatory.

The idea of paying money into a fund to bypass responsibility to protect the environment and allow development to go ahead at pace is understandably attractive to many developers. However, to be done effectively, it will take many years to develop all the conservation measures within EDPs that would be required to cover all of the important ecological features affected by development at a multitude of scales. In the meantime, developers may be able to (or will be required to) pay into the NRF for one or more environmental impacts but will still be required to undertake ecological impact assessment and to avoid, mitigate or compensate on site for ecological features not covered by an EDP, incurring all the costs to do so.

Even when EDPs have been produced and signed off by the Secretary of State for Housing, Communities and Local Government, the levy that developments will be required to pay can be set at anything up to (but not including) the point at which the viability of a development is compromised (which can change), so the costs are likely to be significant and *additional to* any mitigation or compensation for features not yet covered by an EDP.

In addition, the majority of developments in England will still be subject to mandatory biodiversity net gain (BNG) requirements and will need to commission site-based habitat surveys and condition assessments as part of that process.

Furthermore, when giving oral evidence to the Environmental Audit Committee on the 30<sup>th</sup> June 2025, Marian Spain, Chief Executive of Natural England, confirmed that the local planning authority will remain the decision-maker in areas where an EDP applies and can refuse planning consent if they do not agree that an EDP would lead to an overall improvement in the environmental feature(s) covered by the EDP and impacted by the development. This creates considerable uncertainty for developers as they may be mandated to pay the NRF levy and then *still* be required by the local planning authority to mitigate their impact on the protected feature that the EDP was supposed to address.

In our view the Bill is creating a far more complicated and potentially more costly process than currently exists.

## **2. Reduction of Private Investment In, And Availability Of, Off-Site Mitigation Solutions**

Some development will inevitably take place outside of EDP areas, especially in the first few years when EDPs are still being drafted. Sometimes this requires developers to make use of strategic off-site mitigation schemes such as for nutrient neutrality, air quality and recreational impacts. These schemes are often offered by private investors including farmers and other landowners – as well as by local planning authorities.

The creation of an EDP covering an area where a private mitigation scheme is already in operation will be catastrophic for the investor providing the scheme. It will effectively remove their customer base as developers will, instead, be paying into the NRF.

Understandably, given this risk to their investment, private mitigation scheme suppliers are becoming nervous about committing to future investment and there are several reports of new schemes being paused. A lack of privately funded mitigation in the short to medium term would have serious implications for delivery of development not covered by an EDP, as paying into an NRF would not then be an option.

## **3. Reputational Damage, Animal Welfare Concerns and Stakeholder Resistance**

Many developers are rightly proud of the reputations they have earned through nature positive approaches to development. Those reputations could be put at risk if local stakeholders and customers see an apparent shift to a business approach that effectively pays to damage the local natural environment, especially given that there is no guarantee that the conservation actions set out in an EDP and paid for by the developer will be delivered in an effective manner or timely way. The ‘cash to trash’ headlines that we have seen emerge in recent months from those opposed to the Bill are likely to re-emerge at a local level as residents see their important natural areas lost to development with no visible attempt to avoid or mitigate harm.

Furthermore, there is a very real risk that developers and constructors will be visibly seen and held responsible for injuring and killing animals on site, whether accidental or not, as the disapplication of certain pieces of wildlife related legislation may create the perception that a developer no longer needs to take steps to comply with other animal welfare related legislation. Those concerned with animal welfare are likely to be distressed and moved to protest or litigate at the sight of killed or injured animals resulting from construction works.

Developers could, of course, choose to reduce this risk by having an onsite ecological clerk of works to look for signs of animals present and take appropriate measures, but this would be an additional cost.

Developments that appear to damage the environment, risk unintended but potentially unavoidable animal welfare impacts and take beloved nature away from the places where people live and work are likely to be unpopular and create conflict between stakeholders, developers and constructors.

#### **4. Potential Breach Of The Trade And Cooperation Agreement With The European Union**

Investigations are underway to see whether, by reducing environmental protections, the UK Government is seeking an unfair economic advantage over its European neighbours. Under the Trade and Cooperation Agreement the UK committed to maintaining the same level of environmental protection, together with its associated costs, so that EU countries and the UK are trading and competing on a level playing field.

Should this prove to be the case, there could be repercussions in terms of the availability and costs of products and services from the EU that are required for the construction process.

#### **Summary**

The UK Government describes Part 3 of the Planning and Infrastructure Bill as a win-win for nature **and** development. The suggestion that it is a win for nature has already been discredited by the Office for Environmental Protection and a number of KC opinions.

In our view, Part 3 does not deliver a win for developers either. Instead, it creates uncertainty, complexity, financial and reputational risk.

Part 3 could deliver the win-win if it was limited in scope – and applied with certain environmental safeguards - to evidence-based strategic mitigation solutions such as nutrient neutrality and recreational impacts, with a clearly timetabled production of EDPs to reassure private investors and even the requirement that an EDP utilises existing private mitigation schemes before creating new measures. As it currently stands, Part 3 will not support growth, will set back nature recovery and will not help the economy.

**Chartered Institute of Ecology and Environmental Management  
Grosvenor Court, Ampfield Hill, Romsey, Hampshire SO51 9BD**

**Tel: 01962 868626**

**Email: [enquiries@cieem.net](mailto:enquiries@cieem.net)**

**Web: [www.cieem.net](http://www.cieem.net)**