



Briefing note – Planning and Infrastructure Bill (19.03.25)

1. Whilst there is a lot in the bill, and some positive proposals, such as the return of spatial planning, this briefing focuses on Part 3, Development and Nature Recovery, as being of most relevance to Local Nature Partnerships.

Nature Restoration Fund

2. The Nature Restoration Fund (NRF) allows developers to pay into a central fund to compensate for the harm they cause to certain species and habitats instead of going through the licensing process under the Habitats Regulations, Wildlife and Countryside Act or Protection of Badgers Act. Natural England will use the funds to deliver Environmental Delivery Plans (EDPs) at a more strategic level. These new EDPs will detail the sort of developments and the habitats and species impacted by developments that the EDP covers. It will also detail the conservation measures that will be carried out under the EDP to compensate for the damage caused by developments.

Local Nature Recovery Strategies and the NRF

3. Clause 53(2) requires Natural England to have regard to local nature recovery strategies when preparing an EDP. However, Natural England should be *required* wherever possible to deliver the compensatory environmental measures within the same local nature recovery strategy area as the damage was suffered. There is a risk that if this is not the case, and EDPs cover a large geographic area, harm could occur in one part of the country and the compensation be delivered in another part. This means that the community that bears the impact of new developments might not see the benefits of the nature restoration projects. The current proposed approach would potentially favour parts of the country with lower populations or lower land values where it would be easier to deliver conservation measures. Urban areas would suffer the most.

Environmental principles

4. It is important the NRF is designed in such a way that it incorporates key environmental principles. As currently drafted, the bill risks not fully reflecting the purposes of the following principles:
5. Polluter pays: Clause 64 requires Natural England to set a levy that does not make development economically unviable. Therefore, the levy charged might not be adequate to deliver the conservation measures required, meaning the shortfall must be made up





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elsewhere. This is out of the line with the polluter pays principle which requires a developer to pay to remedy all the harm they cause.

6. Precautionary Principle: The lack of pilot schemes or evidence of effectiveness of the proposed NRF risks unintended consequences and does not take account of the precautionary principle, which is an internationally recognised principle which underpins the Habitats Regulations.

Threshold of test

7. The Secretary of State for MHCLG has the final sign off for EDPs and must be satisfied they pass the “overall improvement test”. An EDP passes the overall improvement test if the conservation measures are *likely* to be sufficient to *outweigh* the negative effect caused by the development on the conservation status of each identified environmental feature. The test of “likely to outweigh” is too low a threshold. Setting such a weak or low threshold means there is a good chance some EDPs will not outweigh the negative effects of development leading to an overall decline in protected species and habitats. A threshold of “beyond reasonable doubt” as used in Habitats Regulations Assessments would be more appropriate.

Other issues to highlight

8. The NRF must support the mitigation hierarchy and developers first seek to avoid harm.
9. Where an EDP fails to deliver its conservation measures, there must be an obligation on Natural England to arrange separate delivery.
10. Conservation measures must be delivered before or very soon after the harm is caused.
11. The NRF disincentivises developers from integrating nature onsite as the levy is mandatory thereby discouraging green infrastructure.

Proposed questions to ask at second reading

12. Will the Bill be amended to ensure conservation measures are delivered in the same Local Nature Recovery Strategy area as the harm occurs to minimise spatial displacement?
13. If a developer is not charged the full cost of making good the environmental damage they cause, due to reasons of economic viability, who will pay the shortfall? Or will adequate conservation measures simply not be delivered?
14. Will the Government strengthen the unacceptably low “overall improvement” test, to align with the Environment Act's [Significant Improvement Test](#)?



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