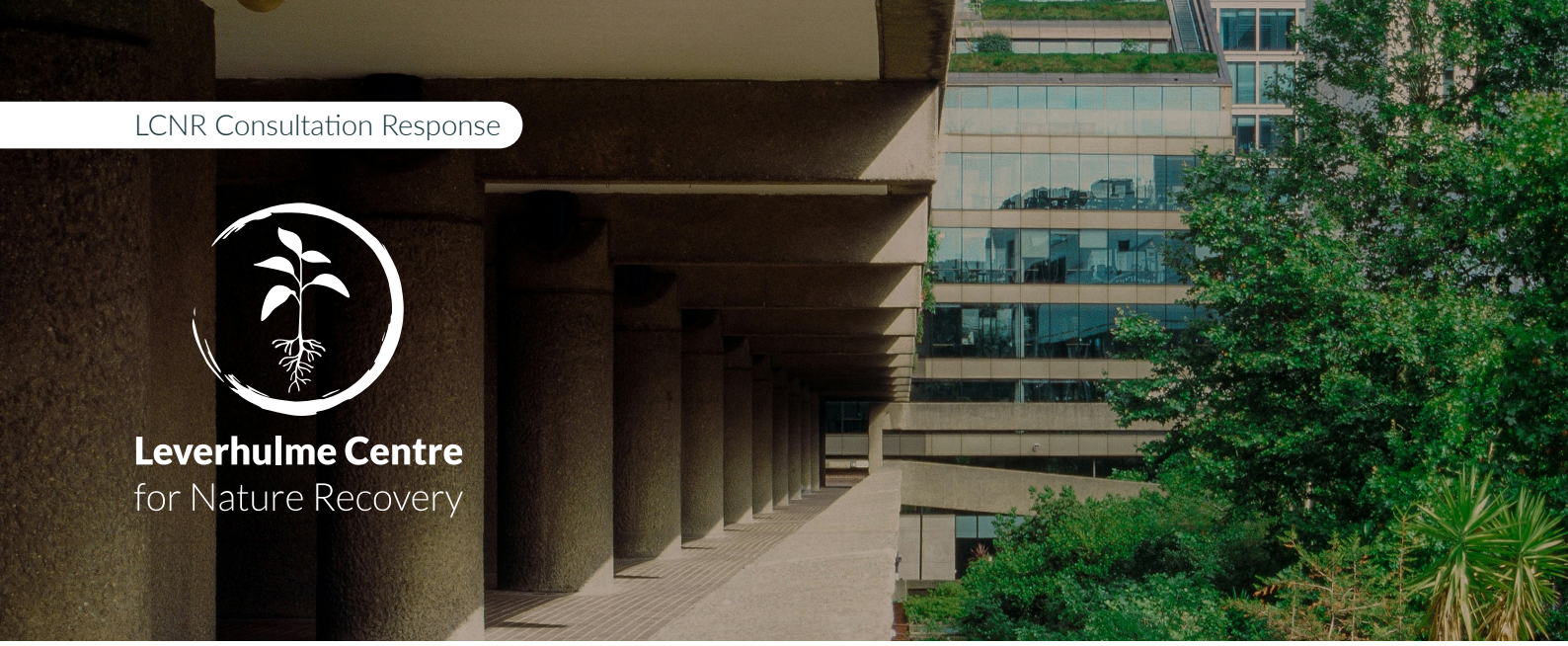

LCNR Consultation Response

Leverhulme Centre
for Nature Recovery

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Response to questions in the Planning Reform Working Paper on Development and Nature Recovery

In December 2024, the Department for Agriculture, Food and Rural Affairs (DEFRA) invited comments on its Planning Reform Working Paper on Development and Nature Recovery. This is LCNR's response.

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February 2025

Q7. Do you consider this approach would be likely to provide tangible improvements to the developer experience while supporting nature recovery?

No - a more strategic approach is good in theory, but the outline plans raise major concerns.

- The approach risks undermining the mitigation hierarchy, making compensation the default rather than avoidance. Land available for compensation is scarce, and proposed compulsory purchase risks a major backlash.
- Removing the need for a site survey for species undermines the mitigation hierarchy. Developers will be able to destroy existing habitats and the species that depend on them without anyone knowing what is lost. It removes incentives for developers to avoid sites with priority species, minimise harm to species during development, or retain vital habitats such as existing trees, hedgerows or ponds within the development.
- It cannot be assumed that species will be able to move to compensatory habitat. The established habitat lost could be one of their last strongholds, and/or loss of species already present on site could endanger vulnerable populations.
- People also depend on local nature-rich green spaces for health and well-being, and feel real distress when local nature is lost.
- The Habitats Regulations are the last line of defence for our rarest habitats and species and it is not clear how Delivery Plans would provide the same protection.

- There is no detail of the Environmental Outcome Reports proposed to replace current assessments.
- It would be better to properly resource the current system based on Biodiversity Net Gain (BNG) and Local Nature Recovery Strategies (LNRS) with some changes towards a more strategic approach.

Q8. What environmental obligations do you feel are most suited to this proposed model, and at what geographic scale?

It is possible that the approach as outlined in Case Study A might help to streamline the process for nutrient neutrality. However, charging developers a standard fee per type of development appears to remove any incentive for site-specific mitigation measures such as Sustainable Drainage Systems (SuDS). This needs to be addressed, because well-designed SuDS can deliver multiple benefits for people and nature, including improvements to water quality, water supply, flood risk, amenity and biodiversity. This highlights the main issue with the proposals overall – ignoring the details of specific sites will lead to poor design and poor outcomes, missing opportunities to deliver multiple benefits.

In theory, well-designed Delivery Plans could be transformational for nature recovery. However, these would need to be based strongly on the mitigation hierarchy, with a primary focus on protecting existing habitats and species. The proposals to omit site surveys to identify any species present, and for a flat-rate for developer contributions, are likely to lead to far worse outcomes for nature by giving developers carte-blanche to destroy all the habitats and species present on their sites. The proposed model is therefore not suitable for any obligations covering protection or restoration of species or habitats.

Based on the outline in the working paper, it is not clear what criteria Delivery Bodies could use to determine "where it is possible to meet species licensing tests at a strategic scale." This is a complex decision and needs to be evidence based; this evidence base does not appear to exist at present, and certainly will not be in place before the proposed rapid implementation of this new system immediately on approval of the new Planning and Infrastructure Bill. National habitat maps and species datasets do not provide full or accurate coverage at the local level, so cannot be used for identifying local habitats and species at risk from development.

Instead, Delivery Plans could be used to set clear principles governing development plans in line with the emerging Land Use Framework and LNRSs, to deliver multiple benefits for people and nature. These could specify

- No development on high grade farmland (Agricultural Land Classification 1, 2 and possibly 3a)
- No development on existing designated sites or within relevant Sites of Special Scientific Interest (SSSI) impact risk zones
- No loss of existing priority habitats, hedgerows or ancient and veteran trees
- Green and blue infrastructure networks to be designed at the outset of development, based on a detailed site survey and incorporating existing features including hedgerows, trees and watercourses. This should link to green networks beyond the site boundaries.
- Any on-site or off-site mitigation via BNG to be in line with LNRS priorities, supporting appropriate local species and habitats.

Q9. How if at all could the process of developing a Delivery Plan be improved to ensure confidence that they will deliver the necessary outcomes for nature?

It is critical that Delivery Bodies are:

- Properly resourced (e.g. Natural England would need extra funding)
- Work in partnership with local experts and stakeholders to incorporate critical local knowledge, views and values, including properly integrating LNRSs.
- Not unduly influenced by lobbying from developers aimed at reducing payment rates or removing on-site obligations to protect existing species and habitats.

As stated for Q8, Delivery Plans can only work for habitat and species protection if they are based firmly on the mitigation hierarchy. They should therefore set principles for development that

- avoids damage to priority species and habitats and loss of high-grade farmland.
- protects existing features such as ponds, trees, hedgerows and other semi-natural habitats, and incorporates them into new developments as part of a network of blue and green infrastructure, in line with Natural England's Green Infrastructure Principles and Standards.

The proposals to set the same compensation level for any site for a certain type of development are likely to result in much greater loss of existing habitats of value, e.g. old trees used as bat roosts. It is also not clear how this would work alongside BNG, where compensation is dependent on the habitats being lost.

The proposal for transparent long-term monitoring to ensure the Plan meets the conservation goal is crucial. Monitoring reports and compensation site locations should be publicly available for scrutiny, as for the Biodiversity Gain Site Register.

It is not clear what would determine whether a Delivery Plan was underperforming. For example, if species populations continue to decline would that be evidence of failure? Would it not be too late to implement corrective action by then, if existing species and habitats have already been lost to development? This reinforces the need for an approach based on the mitigation hierarchy.

It is not clear how the Nature Restoration Fund would be allocated. It seems obvious that funds should at least partly be used to support the pipeline of projects that LNRS teams have developed through an intensive process involving full consultation with local stakeholders and experts, though great care would be needed to ensure equitable allocation between areas.

Q10. Are there any additional specific safeguards you would want to see to ensure environmental protections and/or a streamlined developer experience?

As stated for Q7-9, it will not be possible to deliver the stated aim of positive outcomes for nature without site surveys and implementation of the mitigation hierarchy. While BNG attempts to take account of the time needed for new habitats to mature, there is no guarantee that species lost due to habitat destruction in one place will be able to colonise a new habitat created in a different location. Many species have limited mobility, and they may also suffer direct damage from development activities. Also, new habitats take decades to reach the value of existing habitats, or may never reach exactly the same conditions. For example, it can

take 80 to 100 years for trees to develop the cracks, crevices and hollows needed to provide roosting sites for bats and dead wood to support woodpeckers. The BNG approach of planting three times as many young trees to compensate for loss of mature woodland will not provide the homes that bats need for the next 100 years, which can cause local populations to become extinct.

The Habitats Regulations have been proven to be effective in several reviews over the last few years. Despite the welcome reassurance that the same outcomes would be delivered, it is not possible to see how this could be achieved under current plans, given the impossibility of protecting existing habitats and species under the new proposals.

Wider scrutiny is needed for sign-off of Delivery Plans beyond the Secretary of State, including by species specialists, wildlife groups and local experts, to avoid the risk that political drivers for growth at all costs could outweigh nature protection.

The proposals state that developers will have to pay no more than at present, but how can this guarantee be given at this stage, even before the Delivery Plans have decided what needs to be done to address the impacts? This seems to restrict the ability of the proposed system to deliver improvements above and beyond compensation for damage, as promised.

The paper states that Delivery Plans can be retired when complete, and that further development would then not require payment. But presumably this would only apply up to an agreed number of houses in the catchment.

It also states that developers may eventually need to make multiple strategic licensing scheme payments for individual species. But without a site survey to identify what species are present, how would the delivery body know what species licensing might be required? It would not be adequate to rely on reported past sightings, e.g. via the National Biodiversity Network or Local Environmental Record Centres (LERCs), as these have only patchy coverage, especially on land with no public access.

Q11. Do you support a continued role for third parties such as habitat banks and land managers in supplying nature services as part of Delivery Plans?

Yes - it is hard to imagine how the state alone could deliver the action needed for nature recovery, given that most land in England is privately owned and managed. There must be input from local communities and nature groups who understand their land best. Proposals for Delivery Bodies to obtain land through compulsory purchase are alarming, and risk sparking a major backlash against the whole concept of nature recovery.

There are many initiatives already in place across the country. Huge effort has been expended in developing LNRSs, and persuading farmers to sign up to schemes such as Landscape Recovery and Countryside Stewardship, or to put their land forward for BNG. Some 1400ha of habitat is already secured under legal agreements on the Biodiversity Gain Site Register, with credits waiting to be sold, and thousands more hectares in the pipeline. Any approach that removes the role of habitat banks would be disastrous for trust in nature markets. It would punish those habitat banks that took a risk and engaged early in the BNG process. Many local parishes have developed their own Neighbourhood Plans or Nature Recovery Plans. Exemplary approaches delivering wider benefits have been developed, such as Wilder Carbon, run by the Wildlife Trusts.

In addition, local knowledge is critical in ensuring the best outcomes. National datasets are simply not adequate to capture rich local detail. People who walk round their local areas every day often have a far better understanding of local habitats and species than national agencies.

Third parties must therefore continue to be fully engaged in co-designing any new strategic approach to nature recovery. Relevant bodies include local authority ecologists, Local Planning Authorities (LPAs), LERCs, Local Nature Partnerships (LNPs), LNRS teams, farmer clusters, Landscape Recovery schemes, Wildlife Trusts, WWF, the Woodland Trust, Floodplain Meadows Partnership, RSPB, and other specialist species groups for bats, amphibians, fungi etc.

It is also critical for Natural England and LPAs to receive adequate funding to effectively monitor and enforce both existing arrangements including BNG, and any new strategic requirements.

Q12. How could we use new tools like Environmental Outcomes Reports to support the Model set out in the working paper?

There is no detail of what Environmental Outcomes Reports would cover, or how they could replace the detailed and well-established system of Environmental Impact Assessments (EIAs), Ecological Impact Assessments (EcIAs), Strategic Environmental Assessments (SEAs) and Habitats Regulations Assessments (HRAs). There is therefore a high risk that replacing these relatively strong systems with a new system could undermine protection for nature, especially given the apparent hurry to establish this new system as soon as possible.

A focus on outcomes is important, but does not remove the need for appropriate processes to deliver these outcomes. For example, if monitoring shows species are still in decline, it is then too late to go back and undo the damage caused by development.

SEAs are used to determine whether a development is needed at all, or if better options are possible. For example, an SEA might suggest investment in public transport or active travel rather than building a new road. Similarly, an SEA must have been used for Case Study B to determine that “There are no alternative solutions which would deliver the policy objective in question.” Any replacement system must also carry out this crucial first step.

Case Study B also states “the promoter would be expected to meet high standards and submit a quality application.” But how can quality be assessed without a site survey to show what is on the ground already, how existing species and habitats on the site can be protected, and how these and other environmental issues (pollution, noise, landscape) can be addressed in site design?

However, there is an opportunity to take a strategic approach to site design by ensuring that all environmental issues are considered at the outset of the planning process, rather than halfway through or at the end, based on a site survey. Sites need to be built around natural features such as streams, valleys, trees, hedgerows etc. These can govern the best locations for built development and blue-green infrastructure such as SuDS, retaining links to the wider countryside, and locating any new on-site habitats in the best places (e.g. trees and hedgerows alongside roads as barriers to noise and air pollution). This strategic approach to design of new developments can deliver multiple benefits for people and nature by protecting existing natural assets. In comparison, current practice often involves clearance of all habitats, removal of all topsoil, and levelling of the site, with huge loss of biodiversity, amenity value, and stored carbon.

Q13. Are there any other matters that you think we should be aware of if these proposals were to be taken forward, in particular to ensure they provide benefits for development and the environment as early as possible.

We agree there are opportunities to streamline the current system and make it more strategic, but we are concerned that the plans outlined in the working paper are unworkable in practice. By failing to recognise the importance of protecting existing species and habitats in line with the mitigation hierarchy, these plans risk accelerating the current decline in biodiversity.

It is critical to recognise that nature underpins our quality of life and is vital for a prosperous economy. Access to nature is particularly important for the health and wellbeing of lower income groups, who tend to live in areas deprived of green space. The current issues in the housing market are driven by many factors including a labour shortage and a lack of affordable houses; these will not be resolved by weakening nature protection.

Our main recommendation is for a strategic approach to take environmental issues into account far earlier in the planning process. A focus on better location and design of new developments, built around existing natural assets and avoiding damage to existing species and habitats, can deliver high quality developments to support flourishing local communities and economies. It is also critical to work with local partners and incorporate local knowledge, views and values into planning.

Strengthening the existing system, rather than replacing it with a potentially weaker system, will create the certainty, efficiency and stability that developers and local authorities need, so that they can deliver high quality, affordable, sustainable housing set within nature-rich green space. LNRSs will help to deliver a more strategic approach to creating compensatory habitat in desired locations.

Plans to rush these plans through quickly are worrying given the current lack of detail and major flaws. For example, how could the first Delivery Plans be developed by the time the Planning and Infrastructure Bill is approved, given that they must “assess the underlying environmental issues (i. e. the baseline condition and sources of impacts); set out the actions necessary to deal with the environmental impacts from in-scope development at a strategic level…; present opportunities for further environmental uplift to contribute towards putting the environment on a path to recovery; and calculate the cost of these interventions and apportion the proportionate costs to relevant developments as they come forward.”

There must be enough time for co-design with expert stakeholders including LPAs, LNPs, environmental non-governmental organisations and expert trade associations such as the Chartered Institute of Ecology and Environmental Management and the Chartered Institution of Water and Environamental Management. We have a wealth of evidence and expertise from working with local and national government in issues relating to green infrastructure, LNRSs and BNG, as well as academic research into best practice for nature recovery and nature-based solutions. We would be very keen to work constructively with government to help improve these proposals.

Leverhulme Centre for Nature Recovery

About us

The ongoing loss and degradation of nature is one of the greatest challenges of our time. In response, the Leverhulme Centre for Nature Recovery (LCNR) was created in 2022 as a hub for innovative research on nature recovery. It brings together experts from a broad range of disciplines across the University of Oxford. The team collaborates with partners in communities and organisations around the world.

Our aims

- To understand the societal, biophysical, policy and systemic factors that enable or challenge nature recovery
- To collaborate with partners in case study landscapes to test and enhance frameworks, technologies, and tools for effective, inclusive, scalable, nature recovery delivery that also provides for society and its wellbeing
- To establish an inclusive nature recovery community at Oxford, leveraging its intellectual capital and interdisciplinary convening power to address key debates and challenges in the field.

What is nature recovery?

We define nature recovery as the activity of helping life on Earth to thrive by reparing human relationships with the rest of the natural world.

Leverhulme Centre
for Nature Recovery

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The work of the Leverhulme Centre for Nature Recovery is made possible thanks to the generous support of the Leverhulme Trust.