



1 March 2023

Dear Sir/Madam,

**DLUHC Consultation 'Levelling up and Regeneration Bill – reforms to national planning policy:  
Response from the RSPB**

The Royal Society for the Protection of Birds (RSPB) welcomes the opportunity to respond to this consultation. Nature is in freefall across England (State of Nature 2019<sup>1</sup>), we've seen a Lost Decade of action for nature (A Lost Decade for Nature<sup>2</sup>), and we simply cannot afford to damage our natural environment further.

The planning system is one of the most important tools for addressing this existential crisis by ensuring that development needs can be met whilst simultaneously protecting nature, arresting its decline and driving its recovery. However continual changes to the planning system have left it poorly equipped to fulfil this vital purpose. Reforms are necessary and a review of the National Planning Policy Framework (NPPF) provides an opportunity to begin to address the planning system's deficiencies. It is essential that this opportunity is seized positively if the planning system in England is to be better able to address the most fundamental threat facing society – the nature and climate emergency.

However, this consultation is a significant missed opportunity for tackling the urgent nature and climate crises. Instead of bringing forward the strategic policies that would ensure the planning system works for nature and promotes its recovery, this consultation proposes no specific changes to the NPPF to support planning for biodiversity, postponing consideration for a future consultation of nature and climate considerations, including detail of the interaction of planning policy and important nature policies derived from the Environment Act 2021 and coming into effect this year, such as Biodiversity Net Gain and Local Nature Recovery Strategies. Although we welcome Question 36 within this consultation on how planning policy can encourage small-scale nature interventions, and agreeing that these in themselves are important, merely tinkering around the edges of the planning system will not deliver the Government's environmental targets and ambitions.

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<sup>1</sup> [State of nature report \(rspb.org.uk\)](https://www.rspb.org.uk/state-of-nature-report)

<sup>2</sup> [a-lost-decade-for-nature-2020 \(rspb.org.uk\)](https://www.rspb.org.uk/a-lost-decade-for-nature-2020)

## About the RSPB

The RSPB was set up in 1889. It is a registered charity incorporated by Royal Charter and is Europe's largest wildlife conservation organisation, with a membership of 1.1 million. The RSPB manages 223 nature reserves in the UK covering an area of over 160,000 hectares and providing vital havens for a huge range of species, and spaces where people can get closer to nature. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations.

Our vision is for a world richer in nature, in which all people live in harmony with nature. While in the past nature conservation has mistakenly been seen to be in conflict with economic development and job creation, it is now widely accepted that protecting the environment can benefit the economy, create employment and have far-reaching positive impacts on health & wellbeing. The RSPB works with planning systems across the UK and abroad to protect important wildlife sites and promote biodiversity in development, giving us a unique perspective on how it might better support nature recovery alongside green growth. The purpose of the planning system is to deliver the right development, in the right place, at the right time, in the right way, for public benefit. This includes significant environmental benefits, for instance protection of valued wildlife habitats, and the provision of nature-rich greenspace accessible to all. We believe that a review of the NPPF provides a real opportunity to better enable our planning system to rise to the challenges of not just the present, but increasingly the future.

Our response to the proposed short term textual changes to the NPPF is also set out within our comments below.

## Response to Consultation: Review of the NPPF

### **Our headline messages in relation to the proposed immediate textual changes to the NPPF are:**

- We object to the proposal to remove the test of 'justification' from the tests of soundness of local plans (Question 10).
- We would support measures to enable a greater roll out of well-planned and located onshore wind energy infrastructure where it is not in conflict with nature. However, we do not consider that the proposed textual changes in relation to onshore wind renewable energy will be effective in achieving this.
- We do not support Footnote 63 and consider that it should be removed from the NPPF in entirety.
- We support a positive framework for the re-powering of onshore wind energy infrastructure, and consider that all proposals for full re-powering should require a full Environmental Impact Assessment (EIA) with proposals for partial re-powering requiring EIA screening to determine whether assessment is necessary.
- We do not agree that any additional weight needs to be placed upon the food productive value of agricultural land (Question 37). We believe that adequate provisions are already in place within the planning process to weigh the impact of a proposal on the food

production value of farmland. For these reasons we do not consider that the proposed additional wording to Footnote 67 is necessary and do not support its inclusion.

**Our headline messages in relation to the forthcoming review of the NPPF are:**

To help achieve Environment Act targets and net zero, the NPPF should include the following:

- Explicit objectives for meeting nature recovery targets under the Environment Act 2021, and net zero by 2050 under the Climate Change Act 2008.
- An explicit reference and definition of the mitigation hierarchy, as the best way to reduce environmental harm is to first avoid any negative effects on the environment, before minimising, mitigating, and then compensating for any environmental damage.
- Strong on-going commitment to a plan-led system with local democracy and public participation at every stage.
- Strong provisions for local areas to show ambition in reversing nature’s decline, climate change and driving high quality place-making by exceeding national planning policy requirements.
- Maintained and strengthened protections for designated sites for nature conservation, and the surrounding functionally-linked land that supports them.
- The prohibition of development on irreplaceable habitats, applying strengthened policy protection for ancient woodland and ancient and veteran trees to other habitats identified as irreplaceable.
- A new designation to safeguard land against inappropriate development through the planning system for nature’s recovery. These sites (Wildbelt) would be identified by Local Nature Recovery Strategies and recognised in local plans with protections provided to enable these sites to support nature recovery. Such sites have the potential to nurture the recovery of habitats and wildlife, putting these sites on the path to qualify for a formal nature conservation designation once condition and long-term security criteria have been met and be thriving local places for nature, climate and people.
- A requirement for local plans to set a time-specific target for reaching the Access to Greenspace Close to Home Target (as described in Natural England’s Green Infrastructure Standards) that everyone should live within 15 minute walk of a green or blue space, and a requirement for all new developments to meet this standard. This target forms part of the Environmental Improvement Plan 2023 and is essential to ensure all communities have adequate access to nature for health and wellbeing.
- A requirement for local plans to have a Green and Blue Infrastructure Strategy (as described in Natural England’s Green Infrastructure Standards) to ensure local planning authorities strategically plan opportunities to increase access to nature and benefits from nature-based solutions.

Our responses to the questions posed within the consultation document are as follows (note, we have focused our response on issues of greatest relevance to addressing the nature and climate emergency and not answered all questions):

1. *Do you agree that local planning authorities should not have to continually demonstrate a deliverable five- year housing land supply (5YHLS) as long as the housing requirement set out in its strategic policies is less than five years old?*

Yes.

2. *Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?*

Yes.

3. *Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on or is there an alternative approach that is preferable?*

Yes.

We agree with the logic underpinning this proposal.

4. *Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?*

The proposal set out in paragraph 11 effectively gives greater weight to neighbourhood plans (up to five years old) as protection against speculative development. Local communities often have a deeper understanding of issues within their locality, including in relation to local wildlife and the natural environment. This is likely to have positive environmental benefits by limiting inappropriate unplanned housing development.

Greater support and encouragement should be made available to communities in less advantaged, often urban, areas to increase the level of neighbourhood planning taking place there.

5. *Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?*

No.

The proposed changes are unnecessary and infer that a greater priority should be given to housing provision than other considerations. This shifts the balance of the planning system, the purpose of which is to integrate the three pillars of sustainable development (social, environmental and economic).

No further clarity should be needed that housing is a form of development.

6. *What are your views on the implications these changes may have on plan-making and housing supply?*

We support the proposed changes. Our experience shows that some LPAs are confused and making unnecessarily high housing targets without properly considering the environmental capacity of their area. This has led (for example in the case of Portsmouth City Council) to housing proposals which are highly damaging to designated sites for nature protection.

7. *Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?*

Yes.

Our experience shows that some LPAs are confused and making unnecessarily high housing targets without properly considering the environmental capacity of their area. This has led (for example in the case of Portsmouth City Council) to housing proposals which are highly damaging to designated sites for nature protection.

Policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs, and should include ecological assets, designated areas for nature protection, and areas where additional planning protections apply such as protected landscapes.

8. *Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out of character with an existing area may be considered in assessing whether housing need can be met, and that past over-supply may be taken into account?*

The RSPB does not support the building at densities significantly out of character with an existing area where it effectively means town cramming and loss of open space, green and blue infrastructure, and the access that it affords to nature for local communities. It would also be helpful for the consultation to define what is meant by 'significantly out of character'.

We do note however that Green Belt is a policy designation and such areas often fail to perform well in meeting the needs of nature or climate adaptation and have the potential to do more.

We do agree that past oversupply of housing provision should be taken into account when assessing current housing need within any locality.

9. *Do you have views on what evidence local planning authorities should be expected to provide when making the case that need could only be met by building at densities significantly out of character with the existing area?*

Yes.

Evidence should consider the impact of the proposed densities on biodiversity and the natural environment, including not only current densities within the urban area, but the network of green space and protected areas (such as Local Nature Reserves, SSSIs and

international sites) which should be kept free from development and detrimental impacts arising from it. Evidence should consider the overall environmental limits of the locality and its hinterland, including in relation to water supply.

10. *Do you agree with removing the explicit requirement for plans to be 'justified', on the basis of delivering a more proportionate approach to examination?*

No.

Plan-making should be evidence based. The RSPB objects to the proposal to remove the explicit requirement for plans to be justified. It is a key requirement of Strategic Environmental Assessment that the plan should consider reasonable alternatives. This should include alternative strategies and ways of meeting housing need, and the extent of their impacts upon nature.

The Levelling Up and Regeneration Bill proposes to introduce an Environmental Outcomes Report based system of environmental assessment in place of SEA and EIA. With no detail yet published about the proposed new system, the RSPB objects to any removal at this stage of the formal requirement to justify the strategic approach proposed within any plan relative to alternatives.

11. *Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation? If no, which if any, plans should the revised tests apply to?*

No comment.

12. *Do you agree that we should make a change to the Framework on the application of the urban uplift?*

The principle of concentrating development in more sustainable locations is supported, however what is not clear is whether the introduction of the urban uplift was informed by evidence gained through a robust assessment of the capacity of the settlements affected to absorb higher levels of development without impacting unduly upon the provision, quality and connectivity of green and blue infrastructure.

The urban uplift also does not address the issue of the failure to reintroduce effective strategic planning outside London and joint planning areas, and cannot be supported where it places additional pressures on those brownfield sites which are important for biodiversity.

13. *What, if any, additional policy or guidance could the department provide which could help support authorities plan for more homes in urban areas where the uplift applies?*

Additional guidance and support to authorities should be made available to LPAs planning for more homes in areas where the uplift applies in relation to brownfield sites of high environmental value. It should emphasise the importance of ecological survey and site-based assessment, to ensure important urban nature is protected for both its benefit and that of the wider community.

14. *How, if at all, should neighbouring authorities consider the urban uplift applying, where part of those neighbouring authorities also functions as part of the wider economic, transport or housing market for the core town/city?*

No comment

15. *Do you agree with the proposed four-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply? If no, what approach should be taken, if any?*

No Comment

16. *Do you consider that the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements set out in the existing Framework paragraph 220?*

No Comment

17. *Do you support adding an additional permissions-based test that will 'switch off' the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?*

Yes.

This should help to deal with the issue that LPAs all being penalised by application of the presumption even though they are granting sufficient permissions.

18. *Do you consider that the 115% 'switch-off' figure (required to turn off the presumption in favour of sustainable development Housing Delivery Test consequence) is appropriate?*

Local Planning Authorities are best place to answer this question.

19. *Do you have views on a robust method for counting deliverable homes permissioned for these purposes?*

Local Planning Authorities are best place to answer this question.

20. *What are your views on the right approach to applying Housing Delivery Test consequences pending the 2022 results?*

No Comment

21. *Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?*

No comment.

22. *Do you agree that we should amend existing paragraph 62 of the Framework to support the supply of specialist older people's housing?*

No comment.

23. *Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?*

No Comment

24. *How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?*

No Comment

25. *Should the definition of “affordable housing for rent” in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?*

No Comment

26. *Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?*

No Comment

27. *Is there anything else that you think would help community groups in delivering affordable housing on exception sites?*

No Comment

28. *Is there anything else national planning policy could do to support community-led developments?*

No Comment

29. *Do you agree in principle that an applicant’s past behaviour should be taken into account into decision making?*

Decision-making in planning system has always operated on the basis of weighing-up the merits and impacts of the case against policy and we consider that it is important that this continues. Bringing the applicant’s past behaviour into consideration would be a significant departure and would need to be shaped by a very clear and objective policy framework. Local Planning Authorities should not be able to make subjective or vindictive decisions, and all decision-making should be transparent and evidence based. There is the potential for the consideration of past performance to drive-up standards of both development applications and also delivery; but



also the risk that it could lead to lengthy and expensive challenges, uncertainty, and potentially perverse outcomes.

The efficacy of any such policy could be undermined simply through applicants with a poor record of past performance securing consents through the making of third-party applications, for example by operating through contracted consultants or agents, or in extreme cases establishing an alternative company façade.

If any such system were to be introduced then policy should clearly set out the matters that can be taken into account and the trigger-point at which they become material. Consideration should also be given to a right of appeal.

Relevant matters, if this policy were to be introduced, might include:

- Any damaging activities to protected sites, protected species, and priority habitats where this has not been subject to the mitigation hierarchy through the planning process.
- Site clearance and ecological degradation before the submission of planning applications including as a means to reduce Biodiversity Net Gain obligations.
- The illegal felling of trees, or deliberate harm to designated areas of nature conservation.
- A history of pollution related incidents during construction, including to water courses.
- Having previously been subject to enforcement action, breach or failure to secure an EPS license.

30. *Of the two options above, what would be the most effective mechanism? Are there any alternative mechanisms?*

No Comment

31. *Do you agree that the three build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?*

No Comment

32. *Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?*

The RSPB supports greater emphasis within planning policy being given to the creation of well-designed places within which people and nature can coexist harmoniously. However as no definition is provided as to what constitutes 'beauty' the proposed wording is subjective and open to interpretation, and is in danger of being viewed as referring to nothing more than the architectural style of building facades. It risks being somewhat meaningless in practice. We would prefer to see wording that explicitly refers to what good, integrated and holistic placemaking should be about. A definition of 'beauty' should be provided in the glossary and make reference

to developments and places being nature-friendly with green and blue infrastructure integrated into the wider built form.

The preceding paragraphs to the question make no mention of blue and green infrastructure (B-GI) and the role it plays (if well designed) in delivering beauty and this should be recognised. It is also important that B-GI is integral to a proper maintenance programme secured through the consenting process.

The Government has acknowledged that 'beauty and good design' will be primarily assessed through local design codes, which will be developed by LPAs based on the National Model Design Code (NMDC). However, we consider that the NMDC does not place adequate emphasis on the importance of nature and biodiversity in mitigating and adapting to climate change; in creating thriving and connected habitats for wildlife; and in delivering health and wellbeing benefits for local communities. The National Model Design Code, whilst a useful tool, should therefore be seen as a benchmark and not a ceiling. The NPPF should encourage masterplanners, developers, and LPAs to strive raise the bar and encourage innovation and higher quality outcomes.

*33. Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word 'beautiful' when referring to 'well-designed places', to further encourage well-designed and beautiful development?*

The RSPB supports greater emphasis within planning policy being given to the creation of well-designed places within which people and nature can coexist harmoniously. However as no definition is provided as to what constitutes 'beauty' the proposed wording is subjective and open to interpretation, and is in danger of being viewed as referring to nothing more than the architectural style of building facades. It risks being somewhat meaningless in practice. We would prefer to see wording that explicitly refers to what good, integrated and holistic placemaking should be about. A definition of 'beauty' should be provided in the glossary and make reference to developments and places being nature-friendly with green and blue infrastructure integrated into the wider built form.

*34. Do you agree greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action?*

Greater visual clarity on design requirements set out in planning conditions could be helpful in supporting effective enforcement action but only if additional to full technical specifications being set out in drawings and text. Any greater visual clarity must be accurate and meaningful and not just an 'artists impression' aimed at maximising the chances of securing consent.

In order to avoid any room for uncertainty and the driving-down of standards, it is essential that any visual clarification is additional to the specific requirements and design specifications being set out within the planning consent and its conditions and not instead of them. The responsibility should be on the developer to provide that additional visual clarity of the design in their proposals, particularly given the current lack of resources and capacity with LPAs.

35. *Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?*

This proposed upwards extension policy would likely interact with roosting bats and nesting birds in roof spaces. If pursued, adequate guidance to support LPAs in deciding whether or not to permit an application where bats and nesting birds may be affected would be required. Ecological assessment must be required and undertaken before consent is granted in order to avoid harm to nesting birds and bats and as such the RSPB would object to this proposed upwards policy being enabled under permitted development regulations.

A Mansard design can provide a soft aesthetically pleasing solution to upward densification but would not be conducive to a green roof. However, other approaches can also provide aesthetically pleasing solutions whilst also securing better biodiversity outcomes. For example the use of flat or shallow pitched green roofs can be biodiverse, and potentially also contribute towards net zero if biosolar.

36. *How do you think national policy on small scale nature interventions could be strengthened? For example, in relation to the use of artificial grass by developers in new development?*

We welcome the consultation document's statement that the land-use planning system and national planning policy must support the achievement of Environment Act targets and the net zero target.

However, this consultation does not address what national planning policy must do to ensure the planning system supports the Government in meeting these targets. The consultation also does not progress the implementation of important nature policies such as Biodiversity Net Gain, Local Nature Recovery Strategies and the strengthening of ancient woodland protection, instead leaving the detail in planning policy to a future consultation. While we welcome this specific consultation question on small-scale nature interventions to support nature-friendly development, what is needed is not tinkering, but rapid strategic policy changes that ensures that the planning system delivers on the Government's environmental targets and ambitions. This is a significant missed opportunity for tackling the urgent nature and climate crises in this critical decade.

Current environmental protections in the planning system and in the proposed planning reforms are designed mainly to prevent environmental harm. They have not been enough to halt the decline of nature, let alone turn the tide. Since 1970, 41% of British species have declined in abundance with 15% now at risk of extinction. Without significant policy changes, drivers of land use change will have serious implications for the state of England's natural environment and its resilience to climate change. A shift in the system is required: the planning system must go beyond minimizing and mitigating environmental impact and positively act as a driver of nature's recovery. To do this, the planning system must have the protection and restoration of the environment at its heart when making land use decisions, designing places and planning development.

To help achieve Environment Act targets and net zero, the NPPF should include the following:

- Explicit objectives for meeting nature recovery targets under the Environment Act 2021, and net zero by 2050 under the Climate Change Act 2008.
- An explicit reference and definition of the mitigation hierarchy, as the best way to reduce environmental harm is to first avoid any negative effects on the environment, before minimising, mitigating, and then compensating for any environmental damage.
- Strong on-going commitment to a plan-led system with local democracy and public participation at every stage.
- Strong provisions for local areas to show ambition in reversing nature's decline, climate change and driving high quality place-making by exceeding national planning policy requirements.
- Maintained and strengthened protections for designated sites for nature conservation, and the surrounding functionally-linked land that supports them.
- The prohibition of development on irreplaceable habitats, applying strengthened policy protection for ancient woodland and ancient and veteran trees and to other habitats identified as irreplaceable.
- A new designation to safeguard land against inappropriate development through the planning system for nature's recovery. These sites (Wildbelt) would be identified by Local Nature Recovery Strategies and recognised in local plans with protections provided to enable these sites to support nature recovery. Such sites have the potential to nurture the recovery of habitats and wildlife, putting these sites on the path to qualify for a formal nature conservation designation once condition and long-term security criteria have been met and be thriving local places for nature, climate and people.
- A requirement for local plans to set a time-specific target for reaching the Access to Greenspace Close to Home Target (as described in Natural England's Green Infrastructure Standards) that everyone should live within 15 minute walk of a green or blue space, and a requirement for all new developments to meet this standard. This target forms part of the Environmental Improvement Plan 2023 and is essential to ensure all communities have adequate access to nature for health and wellbeing.
- A requirement for local plans to have a Green and Blue Infrastructure Strategy (as described in Natural England's Green Infrastructure Standards) to ensure local planning authorities strategically plan opportunities to increase access to nature and benefits from nature-based solutions.

There is considerable scope for national policy on small scale nature interventions to be strengthened. Kingsbrook at Aylesbury, a partnership between the RSPB and Barratt Developments Plc showcases how nature-friendly communities can be created, and that such approaches can be commercially feasible.

National planning policy should mandate that simple and proven interventions such as swift bricks, bat boxes, and hedgehog highways are appropriately incorporated as standard into new

developments. These should be complimented by a requirement for more diverse planting palettes of species with noted nectar value to pollinators and avoiding Invasive Non-Native Species.

The use of artificial grass in all new developments should be prevented through policy with Design Codes and Guides barring its use. However, its cumulative use by private households is a major problem and outside the scope of the planning system. To counter this there is a strong argument on biodiversity and environmental grounds for its sale to be banned.

National planning policy could do more to deliver flood reduction and urban cooling through greater encouragement for green roofs and walls, and requiring LPAs to develop to support this such as the Urban Greening Factor in London or the Green Space Factor in Swansea.

Consideration should be given to national policy stating a requirement that all flat roofs in new developments should be green or biosolar roofs unless there are valid reasons why this is not appropriate. Practice guidance should support this requirement, including with consideration of practical difficulties that can be encountered in implementing green walls. The guidance should set minimum standards for features like green roofs equivalent to 'Biodiverse Green Roofs' to avoid the current preference for thin sedum mats that provide few biodiversity benefits.

On the matter of Ancient Woodlands protection, Ancient Woodlands represent some of the best places for nature, but existing safeguards for Ancient Woodland in the NPPF have not prevented losses. The RSPB recommends better protection of all ancient woodland as part of UK government's commitment to protect 30% of the UK's land by 2030. Provision must also be made for their buffering, expansion and reconnection. This should include a 100 metre buffer zone where natural colonisation is prioritised to establish the most natural woodland possible. Development should not be permitted in this zone.

We welcome reiteration of commitments for Ancient Woodland and Ancient and Veteran Trees in the Environmental Improvement Plan, which must be implemented without further delay. The 2022 Keepers of Time pledges must be reflected in national planning policy and guidance, including to maintain and enhance the existing area of Ancient Woodland and update the Ancient Woodland Inventory to identify more of the remaining fragments. However, no new mechanisms have been proposed in this consultation, and are urgently needed so that the pledge to maintain and enhance the existing area of Ancient Woodland can be reflected in planning decisions. Clarification is also needed as to what, if any, additional criteria will be considered against any further losses of Ancient Woodland which might be considered reason to break the Keepers of Time commitment.

Stronger protection in the planning system could be achieved by affording Ancient Woodlands the same level of significance as the protected areas network, with equivalent protection to SSSIs in the NPPF. We also welcome plans to review protection for Long-Established Woodland and for the creation of a Long-Established Woodland Inventory by 2024.

*37. Do you agree that this is the right approach making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best most versatile agricultural land?*

We believe that adequate provisions are already in place within the planning process to weigh the impact of a proposal on the food production value of farmland. Land is a finite resource with many competing priorities upon it, including food production, built development, achieving Net Zero and the Environment Act targets. As such a more strategic approach to land use and land management is required to meet these different demands. This is critical given the finding of a UK Government report that climate change, the loss of biodiversity and the depletion of soils pose the greatest medium to long term risk to domestic food security.

As such, the planning system should seek to better integrate these different demands, as opposed to giving greater weight to the food production value of land. Given the vague wording proposed we would be concerned that this could preclude some land from uses such as solar farms, which can be incorporated into farmland and are critical for meeting net zero and improving domestic energy supply.

For these reasons we do not consider that the proposed additional wording to Footnote 67 is necessary and do not support its inclusion.

*38. What method or measure could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?*

The concept of introducing a carbon impact assessment as part of the plan-making in planning decision process sounds appropriate in the midst of a nature and climate emergency, particularly if applied to both plan-making and application determination processes. It could be incorporated into Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA), and in the interests of proportionality could be applied only to plans and EIA development (on the grounds that the carbon emissions from, say, a single house, would be assessed through the plan-making process and further controlled through building regulations).

However for the introduction of any assessment to be effective it is essential that carbon impacts, both direct and indirect, are a material consideration in planning decisions. Nature-based solutions can often provide a means of addressing issues whilst achieving significant carbon benefits.

*39. Do you have any views on how planning policy could support climate change adaptation further, specifically through the use of nature-based solutions that provide multi-functional benefits?*

Nature-based solutions (Nbs) can help address societal challenges, such as our need to adapt to climate change, and can provide huge benefits for both people and wildlife. To support LPAs in enabling climate adaptation, there should be a general presumption in favour of Nbs over traditional engineered solutions, with plans and projects needing to justify the use of engineered solutions by demonstrating that no viable NbS option exists.

Peatlands in good condition can help slow the flow of water during storms; urban trees can provide shade and retain moisture which helps cool our towns and cities during extreme heat; saltmarshes can help buffer our coastlines and provide protection from sea-level rise.

Analysis has shown that nature-based solutions can help address 33 of the 34 climate change risks identified as requiring more action in the Climate Change Committee's third UK Climate Change Risk Assessment (CCRA3, June 2021), including the eight risks requiring the most urgent

action. Nature-based solutions are also often cheaper to implement and maintain than alternative grey infrastructure adaptation options and, when all their multiple benefits are considered, Nbs solutions usually have significantly higher benefit-cost ratios.

The Government's commitment to enacting Schedule 3 of the Flood and Water Management Act 2010 should significantly help address the problem of pipe-to-basin SuDS and by default encourage Nbs. To overcome inertias with developers and designers whose default is often engineered solutions, this should be reflected and reinforced through both national planning policy and building regulations particularly to ensure that source control is a priority when Schedule 3 is enacted.

The NPPF should encourage and support well-landscaped source control features especially through bioretention with street trees. The greater use of street trees and flower-rich grassland would both support climate and biodiversity imperatives. The latter require poorer quality soils, and topsoil should therefore only be used where it is needed (sports pitches, allotments, and gardens, etc). Integrated green and blue infrastructure solutions should be considered at the masterplanning and design coding stage and not as an afterthought and with biodiversity and amenity prioritised. The area coverage of hard standing within schemes should be minimised with excess impermeable paved 'dead space' replaced by an increased use of permeable surfaces and green/blue infrastructure features.

National planning policy should mandate that service roads and their verges in developments prioritise NbS, including through the use of permeable surfaces, street trees, and bio-retention beds. All these are currently non-adoptable features, and in some cases can also be beneficial in future-proofing new developments against the impacts of climate change.

Site allocations for new development, particularly where water-intensive should make water stress a top-line consideration, with appropriate water neutrality policies in place for the most stressed areas of the east and south-east of England and elsewhere as necessary. Developers should be required to demonstrate how new development will maximise use of rainwater to reduce potable water demand for, for example, use in gardens as well as to reduce storm overflow spills. Water companies should be consulted early as part of the planning process to consider options for innovative neighbourhood scale water management to be designed into new developments eg smart water butts. Policy should ensure that SuDS systems must mandatorily deliver both flood protection and water quality benefits.

New developments must minimise impermeable surfaces to reduce flood-risk and integrate appropriate features to store or slow water flows

Development plans, alongside Local Nature Recovery Strategies should maximise opportunities for Natural Flood Management measures, considered at a catchment level. Developers downstream of such measures should be encouraged to fund interventions such as restoring rivers to more natural conditions (bends, channels and connection to flood plains, alluvial woodlands etc) in preference to engineered onsite solutions. The same is true for NbS as planning at a landscape scale and integrating NbS into LNRSs and Nature Recovery Networks will help connect NbS into a more coherent ecological network.

The forthcoming review of the NPPF should reflect the third National Adaptation Programme. It will be important that there is consistency across different policy areas (and sectors) with regard to adaptation. The RSPB advocates for adapting to 2°C and assessing for 4°C as recommended by the Climate Change Committee.

National planning policy should provide stronger protection for semi-natural habitats with a focus on protecting all natural assets, not just those with formal designations. Not only is this important from a biodiversity perspective but particularly in terms of the reliance that society will have on these ecosystem services for future adaptation/prevention of heightened climate change impacts.

*40. Do you agree with the changes proposed to Paragraph 155 of the existing National Planning Policy Framework?*

We welcome a positive strategy for re-powering in recognition of the pressing and important need to prevent the UK from losing its onshore wind generation capacity. For the avoidance of doubt we draw a distinction between ‘full’ and ‘partial’ repowering. In a ‘full’ repowering process, the foundations of a site will be replaced (in many cases to facilitate an increase in tip height for the turbines). This may or may not include a change in the number of turbines. In a partial repowering process, the turbine towers, rotors, transmission equipment and other associated infrastructure may be replaced but not the foundations. In a partial repowering process, there is no increase to the number of turbines and any changes to the tip height or rotor size of the turbine are relatively small.

Whilst we agree that amended wording is required to address re-powering, this must not come at the cost of harm to nature, and this has implications for environmental assessment. For applications to fully repower an onshore wind plant, a full Environmental Impact Assessment (EIA) must therefore be conducted without exception to ensure careful consideration of the ecological impacts of repowering. We recommend that the baseline on which an EIA is conducted should be a decommissioned site – i.e., that the ecological impacts of a fully repowered site should be measured against the ecological value of the original site prior to any wind energy development commencing. This will enable local authorities to screen out applications for fully repowered sites that have had major unintended ecological impacts, and encourage the use of mitigation strategies.

For partially repowered sites, we recommend a screening process is conducted to establish whether an EIA is required.

We would support the proposed changing to wording at Paragraphs 155 and 158 if accompanied by further changes to clarify the environmental assessment implications as we have identified in order to ensure that harm to nature is avoided.

*41. Do you agree with the changes proposed to Paragraph 158 of the existing National Planning Policy Framework?*

We support the broad intentions behind the addition of ‘c’ to paragraph 158 of the existing National Planning Policy Framework. As in response to Q41 above, whilst we agree that amended wording is required to address re-powering, this must not come at the cost of harm to nature, and this has implications for environmental assessment. For applications to fully repower an onshore wind plant, a full Environmental Impact Assessment must be conducted without exception to ensure careful consideration of the ecological impacts of repowering. We recommend that the baseline on which an EIA is conducted should be a decommissioned site – i.e., that the ecological impacts of a fully repowered site should be measured against the



ecological value of the original site prior to any wind energy development commencing. This will enable local authorities to screen out applications for fully repowered sites that have had major unintended ecological impacts, and encourage the use of mitigation strategies.

For partially repowered sites, we recommend a screening process is conducted to establish whether an EIA is required.

Onshore wind energy is a renewable energy source with relatively low ecological impact when sited appropriately, and it is one of the cheapest sources of energy. As the Government's Net Zero Review has identified, substantial amounts of new onshore wind energy will be required to reach Net Zero. Given this context we are unsatisfied with the changes to Footnote 63 and the new footnote 62 in the draft NPPF as these will do little to practically improve the UK's onshore wind energy capacity and the role of onshore wind in Net Zero.

We do not support footnote 63 and consider that it should be removed in entirety. Its purpose is effectively to put a brake on new onshore wind energy development, and in that respect it has been successful since its introduction. It runs counter to the requirements of Paragraph 155 of the current NPPF and is unhelpful. Effectively barring the consenting of new wind developments that lie outside of current local plan allocations will prevent new development across large swathes of England. That is not conducive to addressing the climate emergency nor in line with the Government's stated environmental objectives.

However, if footnote 63 is to remain, we do support the additional reference to Supplementary Planning Documents (SPD) 63 insofar as it relates to policy set out within existing local plans and SPDs. We reiterate that policy wording must be clear that all local plans from now on must plan positively by identifying areas suitable for onshore wind energy deployment and justifying the exclusion of areas considered unsuitable. This is of critical importance given that the UK has a Net Zero 2035 Power Grid commitment.

The proposed changes within footnote 63 in relation to community support from 'fully addressed' to 'satisfactorily addressed' and from 'their backing' to 'community support' leave a great deal of room for interpretation. We believe that in practice, this will lead to a continuation of the same issues as onshore wind energy proposals face at present, where (sometimes small but loud) groups fundamentally and irreconcilably opposed to onshore wind energy development in their locality can exploit the wording of the NPPF and local authorities can choose any reason for refusal when it is politically expedient for them to do so. We consider that proposed onshore wind energy developments should be treated no differently to other TCPA development applications, with Local Planning Authorities having the power and responsibility to balance all relevant considerations. There should be no additional requirement to have to demonstrate community support.

Similarly footnote 62 in the new draft of the NPPF does not go far enough in relaxing the restrictions on onshore wind. These options for approval remain highly restrictive, and in addition, the caveats on 'community support' and ensuring concerns have been 'appropriately addressed' leave substantial room open to interpretation. We believe that in practice, this will lead to a continuation of the same barriers to onshore wind energy deployment as we have outlined above. We believe that these requirements should be removed from the NPPF.

While we are aware that the Government intends to issue guidance on the definition of 'community support' regarding wind energy development, as far as we are aware the

Government does not intend to issue any consultation on the definitions of the wider terms proposed to be used within the NPPF. A consultation on this wording should be undertaken.

*42. Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework? Do you have any views on specific wording for new footnote 62?*

Footnote 62 in the new draft of the NPPF does not go far enough in relaxing the restrictions on onshore wind. These options for approval remain highly restrictive, and in addition, the caveats on 'community support' and ensuring concerns have been 'appropriately addressed' leave substantial room open to interpretation. We believe that in practice, this will lead to a continuation of the same issues as onshore wind energy proposals face at present, where groups fundamentally and irreconcilably opposed to onshore wind energy development in their locality can exploit the wording of the NPPF and local authorities can choose any reason for refusal when it is politically expedient for them to do so. We believe that these requirements should be removed from the NPPF.

While we are aware that the Government intends to issue guidance on the definition of 'community support' regarding wind energy development, as far as we are aware the Government does not intend to issue any consultation on the definitions of the wider terms proposed to be used within the NPPF. A consultation on this wording should be undertaken.

*43. Do you agree with our proposed Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?*

The RSPB supports the intention behind the proposed changes to Paragraph 161 as a contributor to tackling climate change. However, in addition to solely referencing conservation areas and listed buildings reference should also be made to the requirement to provide appropriate mitigations against the loss of any breeding habitat for birds and bats as a consequence of the adaptation works.

The NPPF could helpfully clarify the applicability of relevant legal duties, such as species protections, to reduce the significant number of avoidable offences every year against protected species during the development process. Clarifying the interconnections and requirements of relevant duties would help prevent confusion and hopefully avoid unnecessary harm to protected species.

*44. Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?*

The RSPB does have some comments with regard to minerals and waste planning and related policy within the NPPF.

In relation to paragraph 214 of the current Framework, reference to the economic benefit of minerals planning and extraction should explicitly refer to legacy benefits with regard to the wider contribution of nature-based solutions arising through the restoration of workings.

Paragraph 214(a) should explicitly refer to designated sites for nature conservation as being amongst those as areas that should be excluded from minerals extraction.

In relation to Paragraph 214(e), we would suggest adding '... and adhering to national and local biodiversity, sustainability and social policies in determining restoration concepts and plans'.

We would request that Paragraph 220(b) be deleted.

*45. Do you agree with the proposed transitional arrangements for plans under the future system? If no, what alternative arrangements would you propose?*

To address the nature and climate emergency it is important that a full suite of local plans is in place at the earliest opportunity that reflect the statutory requirements for Biodiversity Net Gain (BNG) and Local Nature Recovery Strategies (LNRS) as well as the statutory targets of the Environment Act 2021.

*46. Do you agree with the proposed timeline for preparing neighbourhood plans under the future system? If no, what alternative timeline would you propose?*

No Comment

*47. Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?*

No Comment

*48. Do you agree with the suggested scope and principles for guiding National Development Management Policies?*

The introduction of National Development Management Policies does have the potential to avoid the costs and time involved in LPAs individually developing and justifying their own policies. However it is critical that the development of any national set does not suppress or override local ambition, including in relation to place-making, nature recovery and climate. NMDPs if introduced should therefore act as a baseline standard or requirement and not a ceiling. LPAs should be able to demonstrate greater ambition reflecting local appetites and circumstances where they so wish and are able to justify so doing.

The detail of any proposed NMDPs should also be subject to full public consultation and Parliamentary scrutiny before establishment.

*49. What other principles, if any, do you believe should inform the scope of National Development Management Policies?*

NDMPS should be informed by:

- The Government's Environmental Principles Policy Statement (EPPS).

- The mitigation hierarchy.
- The goal not just of nature conservation, but of nature recovery in line with Environment Act 2021 targets, and the Apex target of the Environmental Improvement Plan 2023.
- A commitment to enhance and strengthen existing environmental protections.

50. *Do you agree that selective additions should be considered for proposals to complement existing national policies for guiding decisions?*

If selective additions are to be introduced, then consideration could helpfully be given to addressing carbon reduction in new developments as a current policy gap.

51. *Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?*

Consideration could be given to addressing the following widely geographically applicable issues within NMDPs if not already set out within legislation:

- Designated sites safeguarding policies
- Primacy and importance of the Mitigation Hierarchy
- Irreplaceable habitats (currently in the NPPF)
- Nature-friendly design (including integrated green/blue infrastructure where appropriate) in all new developments.
- Green Infrastructure Standards
- Designated sites protection
- To give significant weight to, and support delivery of, Local Nature Recovery Strategies.

52. *What, if any, planning policies do you think could be included in a new framework to help achieve the twelve levelling up missions in the Levelling Up White Paper?*

No Comment

53. *How do you think that the framework could better support development that will drive economic growth and productivity in every part of the country, in support of the Levelling Up agenda?*

The right type of development, well-designed and in the right location, will boost local and regional prosperity. Failure to bring forward development in this way imposes costs on society and nature. To support good planning and decision-making, sufficient resources and expertise for currently-stretched public bodies, including LPAs, as well as Statutory Consultees and advisors such as Natural England, are needed. Investment in people and skills in local, area-based teams will benefit economic growth and productivity across the country whilst also enabling the Government and other bodies to meet environmental goals and imperatives.

As well as increased capacity and skills for planning decision-making, better strategic environmental assessment alongside Local Nature Recovery Strategies and up-to-date, high quality and appropriate environmental data made easily and openly available (for example through the RSPB's proposition for a single hub in the form of an 'Environmental Observatory')

will also reduce planning delays, costs and uncertainty for LPAs and developers identifying suitable locations for housing, employment areas, and other development.

Investment in the natural environment and environmental infrastructure can also support local and regional prosperity by creating demand for new green economy jobs, skills and training in nature-based solutions and sustainability and attracting and retaining workers and businesses closer to an area, potentially increasing productivity by allowing people to live closer to work with shorter commuting times, more active travel potential, and improved work-life balance.

*54. Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?*

Whilst the use of Previously Developed Land for development has many sustainability advantages, brownfield sites can be vital havens for urban biodiversity. Sites should therefore be subject to a full ecological assessment before development consent is granted to prevent inappropriate loss of valuable sites.

*55. Do you think that the government should bring forward proposals to update the framework as part of next year's wider review to place more emphasis on making sure that women, girls and other vulnerable groups in society feel safe in our public spaces, including for example policies on lighting/street lighting?*

Yes.

We would support the inclusion of appropriate and reasonable proposals within the updated NPPF to make sure that women, girls and other vulnerable groups in society feel safe in our public spaces. The fear of using such spaces, often alone, is unfortunately part of the lived experience for so many and needs to be addressed. Amongst the many other serious implications this has for individuals, it reduces the opportunity for so many to get out and about enjoying and engaging with nature, particularly in less well used spaces and during quieter hours. Everyone should have equal access to this basic human need, and that so many feel unable fully to is unacceptable.

However it is also important to avoid knee jerk policy reactions that would have a negative impact on nature. The solutions to this issue can be complex and need to be carefully developed and evidence based. For example, lighting is rightly seen as a central issue, however discussions among affected groups within the RSPB have identified that individuals have differing views with some preferring more lighting whilst others considering that lighting can draw more attention to the users of spaces.

Solutions and guidance need to be developed that integrates the needs of girls, women and other vulnerable groups with those of nature. Whilst generally having fewer places that someone can hide is beneficial, and straighter paths and lower hedges can bring safety benefits, knee-jerk over-reactions to (for example) simply removing landscape planting from public spaces would not be appropriate. Integrated ways need to be found that provide safe and attractive solutions, minimising wherever possible any costs to nature through habitat loss and disturbance. The RSPB would be happy to work with the Government to help develop suitable guidance for integrated solutions that integrate safety measures in nature-friendly ways.

As a contributor towards an integrated approach, much can be gained by simply enabling people to be more informed about the nature of any paths or spaces that they may be considering using to help them make an informed decision on whether they want to use them on that occasion or not, taking into account that everyone has a different tolerance of risk. In itself though this does not substitute for the need wherever possible to make spaces safe and attractive for all members of society to use.

‘Help points’ that have direct access to emergency services can also be part of the solution in some settings and can have a positive impact on the feeling of safety. Clearly, the presence of ‘officials’ (wardens, rangers, police etc) patrolling spaces can make a big difference on how safe people feel, and this can be part of an integrated solution in some circumstances.

There may also be an argument for ensuring either that a balance of women and representatives of vulnerable groups sit on, or advise Local Planning Authority planning committees in relation to safety matters. This could be enabled as part of the role of ‘Design Review Panel’s, as well as listening to the views of women in the community. Having a community focus and engaging with the women and girls within the community is key to getting this right.

Finally, whilst outside the scope of the land-use planning system and NPPF but related to associated public policy, there needs to be a focus on training and changing attitudes and behaviours to promote women’s and girls’ rights to enjoy public spaces free from violence or fear of violence. This needs to be done in various settings, and from a young age school children need to be engaged in transformative activities to promote respectful gender relationships, gender equality, and safety in public spaces. This also needs to be promoted and trained in police forces to ensure that they understand and lead by example.

We trust that you have found our response to this consultation helpful, and would be happy to discuss any element of it in more detail with you.

Yours faithfully,



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