



Ministry of Housing, Communities & Local Government

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To: All Peers

14 October 2025

My Lords,

PLANNING AND INFRASTRUCTURE BILL: NATURE RESTORATION FUND

We are incredibly grateful to everyone who has participated in the debates on Part 3 of the Bill and welcome the contributions from Peers who have helped to build a shared understanding across the House of how the Nature Restoration Fund will operate in practice.

During Lords Committee debate on Part 3 of the Bill, we made several commitments to provide further explanation across specific issues raised, which we have drawn together in this letter.

To support the final stages of the Bill's passage, we are also continuing to meet with Peers to discuss their concerns in more detail, and we will work to produce further supporting materials where necessary.

The role of Natural England and the nature restoration levy

Natural England will play a central role in designing and delivering EDPs, but we recognise that Peers are interested in how Natural England will approach this new function. As the government's statutory nature conservation body, Natural England are bound by a range of existing legal duties that govern how they approach their work. These general duties will work alongside the express provisions in the Bill as to how Natural England must develop and implement EDPs.

Where Natural England are taking on a new or expanded role – such as in the collection and use of the nature restoration levy – the Bill provides provision for this to be governed through secondary legislation or through guidance where appropriate. Specifically in respect of the nature restoration levy, the operation of the levy will be set through secondary legislation with the Bill providing clarity as to the key principles in respect of how the levy must be used; namely that:

- the levy must be used to support the environmental feature in respect of which it was paid
- the levy can also be used for other specified things, such as for administrative expenses in connection with an EDP, repaying money for expenditure already incurred or giving loans, guarantees or indemnities - it cannot be used to cross-subsidise other activities
- while the levy will be collected centrally, this can then be used to procure conservation measures from third parties.

The Bill also provides for circumstances where addressing an environmental impact through an EDP, and hence payment of the levy, could be mandatory. However, as set out during the debate, this would only be in exceptionally limited circumstances and would need to meet the legal high bar of Natural England demonstrating it would be necessary for the levy to be mandatory. While the expectation would be that the use of EDPs be voluntary, there could be circumstances where an EDP is prepared to support a single project – for example, an NSIP where the developer supports the need for an EDP – and so there would be a need to guarantee that the levy would be received.

Supporting private markets

We recognise the important and increasing role the private sector must play in supporting nature's recovery, including land managers, habitat banks, and ecological consultancies. These businesses also play a crucial role in the planning system. The Bill has therefore been drafted to enable delegation and partnership working with third parties. This may apply both to the development of EDPs – including ecological surveys and impact assessment – and in the undertaking and monitoring of conservation measures. EDPs represent an opportunity for growth in nature services markets and revenue diversification for farming and land management businesses.

As committed during Committee Stage, the Government will publish guidance for Natural England regarding the role of the private sector in EDPs. This guidance will be clear that open and competitive procurement of goods and services is typically the best way to secure value for money and innovation. We will expect Natural England to preferentially adopt competitive procurement approaches for EDPs wherever possible, recognising that in some instances direct delivery will be necessary. We will ensure that all conservation measures are high integrity, adopting the Nature Investment Standards published by the British Standards Institute wherever applicable.

The table below outlines our draft principles for conservation measure procurement, which will be discussed and developed further during the secondary legislation process.

Principle	Description
Regulatory Compliance	The approach to conservation measure delivery is compliant with relevant Government legislation (e.g. Procurement Act 2023, Public Contract Regulations 2015, Subsidy Control Act 2022)
Meeting the Overall Improvement Test	The approach to conservation measure delivery must present a viable route to meeting the Overall Improvement Test. This means that there needs to be confidence that the measures can be successfully delivered in the necessary timescales, that they will have the desired benefits, and that they can be maintained for at the appropriate time to address the impact of the development that is the subject of the EDP.
Value for Money	The approach to delivering conservation measures is cost effective and represents a good use of developers' levy payments.
Wider Public Benefit	The approach to conservation measure delivery offers environmental and / or social co-benefits, aligned to the Government's objectives through the Environmental Improvement Plan, legally binding environmental targets, and Plan for Change.

Shaping High Integrity Nature Markets	The approach to conservation measure delivery supports private providers and maturing markets for high-integrity nature services including the NIS standards where applicable. This will allow the NRF to assist in building capacity and capability in the sector, with the goal of de-risking delivery, improving efficiency, and creating a scalable supply of conservation measures.
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We cannot offer further details or commitments regarding specific procurement activity at this stage, due to our fairness and transparency obligations under public procurement law. We are planning to conduct early market engagement for conservation measure delivery in due course and will keep nature market providers updated through existing avenues for engagement and dissemination of information.

Mitigation hierarchy

In developing the NRF, we have been clear that this will deliver better environmental outcomes than the existing system which only requires that impacts be offset. By taking a strategic approach, EDPs will be able to deliver more for the environment. However, in moving to a strategic approach, there is a need to reflect this in how the elements of the mitigation hierarchy are expressed. This is driven by the shift away from addressing impact on a project-by-project basis as well as longer-term approach adopted through EDPs. Taking the elements in order:

- **Avoid** – this remains a core part of the model with Natural England being able, through the use of planning conditions, to require developers to take action to avoid harm at the site of their development as a condition of using the EDP. For instance, an EDP pertaining to water stress may set more stringent water efficiency standards for new build homes in scope of the Plan.
- **Mitigate** – we expect the majority of conservation measures within EDPs will seek to address development impacts on an environmental feature at the same site as the harm is realised, with the additional advantage that these measures must go beyond offsetting and materially outweigh the negative effect of development.
- **Compensate** – the NRF only allows for network measures – i.e., measures to benefit the same environmental feature at a different site to where the impact is realised – in limited circumstances where Natural England are of the view that these network measures will deliver a better environmental outcome than could be achieved through more local measures.

As noted during previous debates, the Government is also clear that in making an EDP the Secretary of State will be bound to have due regard to the Environmental Principles Policy Statement (EPPS). This will ensure that EDPs are shaped by the Prevention and Rectification at Source principles which are of particular relevance to the mitigation hierarchy.

Overall improvement test

The overall improvement test is a central component of the NRF which ensures that an EDP can only be made where the conservation measures will materially outweigh the negative effect of development on the relevant environmental feature. This decision from the Secretary of State is based solely on the robustness of the EDP which will use the best available scientific evidence.

When an EDP is sent to the Secretary of State to consider, it will include a statement from Natural England setting out their view as to whether the EDP passes this test. As well as this position from Natural England, the Secretary of State will benefit from receiving the responses to the consultation and will need to have regard to the environmental principles when considering whether to make an EDP.

This introduces a high bar to ensure that the EDP will deliver the improved environmental outcomes.

Performance of EDPs

The government amendments make it clear and mandatory for an EDP to include back-up measures, as well as explicitly requiring Natural England to monitor the effectiveness of conservation measures. Where monitoring shows that the primary conservation measures are failing to deliver, this would then trigger a requirement for Natural England to deploy the back-up measures. This combination of monitoring and direct action to address any underperformance provides further assurance that an EDP will deliver in line with the overall improvement test.

In addition, the government amendments introduce an explicit requirement for midpoint, endpoint and revocation reports to set out whether the EDP is still likely to, or has passed, the overall improvement test. Should the endpoint or revocation report contain an assessment that the conservation measures are not likely to, or have not passed, the overall improvement test, the Secretary of State will be under a duty to take proportionate action to address any shortfall in environmental outcomes.

Consultation and guidance

Public consultation is a vital element of the NRF, ensuring transparency and allowing local communities, environmental groups and developers to scrutinise an EDP before this is sent to the Secretary of State.

The Bill ensures that every EDP is subject to public consultation and that this consultation can run for no fewer than 28 days with the ability for this to be extended in line with future regulations.

Yours sincerely,



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