

## Response ID ANON-SNQ4-RDR2-Z

Submitted to Proposed reforms to the National Planning Policy Framework and other changes to the planning system  
Submitted on 2024-09-24 20:24:06

### Scope of consultation

### Respondent details

a What is your name?

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c What is your organisation?

Organisation:  
Wild Justice

d What type of organisation are you representing?

Interest group or voluntary organisation

If you answered "other", please provide further details:

### Chapter 1 – Introduction

### Chapter 2 – Policy objectives

### Chapter 3 – Planning for the homes we need

1 Do you agree that we should reverse the December 2023 changes made to paragraph 61?

No

Please explain your answer:

No.  
Mandatory/strengthened targets to meet housing need are likely to worsen ecological outcomes by leading to the allocation of inappropriate sites. This already happens with the 'tilted balance': where a council cannot demonstrate 5-year land supply, there is a presumption in favour of development. 'Tilted balance' scenarios currently lead to greater allocation of ecologically sensitive land for speculative development on more unsustainable sites. Intensifying the 'tilted balance' may lead to undesirable ecological outcomes, ultimately leading to a greater degree of biodiversity loss and this must be considered properly by the NPPF.  
Ecological surveys should be conducted on land and submitted to the Local Planning Authority for scrutiny as part of the allocation process. These surveys should be paid for by the developer but commissioned by the Local Authority to ensure their quality and independence.

2 Do you agree that we should remove reference to the use of alternative approaches to assessing housing need in paragraph 61 and the glossary of the NPPF?

No

Please explain your answer:

See answer to Q1

3 Do you agree that we should reverse the December 2023 changes made on the urban uplift by deleting paragraph 62?

No

Please explain your answer:

The proposed changes to the system of housing targets, including removal of the 'urban uplift' are generally inadequate in the absence of a broader strategy for development which takes into account both housing need and environmental limits nationally and regionally. The danger of this approach is that in the absence of robust, well-considered national, regional, and local plans, the revised targets will become the sole mechanism for allocating

housing growth spatially, particularly in the near future. This is likely to lead to development in unsustainable locations that has an impact on ecologically-valuable land.

The changes see significant rises in housing targets for more rural Local Planning Authorities. Whilst the consultation document mentions flexibility in terms of national parks and areas with protected habitats to reduce their housing targets, there is a danger that development is pushed onto the boundaries of such areas. Recent legal advice for East Hampshire District Council has noted that the existence of large areas of National Park within their boundaries is not a sound reason to depart from established housing targets using the Standard Method. This means that the housing target will still apply, but to a much smaller area of land, putting huge pressure on contiguous areas that fall outside of National Park boundaries. Using the proposed revised method for housing need gives those LPAs with part of their boundary in a National Park a 54.52% increase over the current figure. This compares to a national increase for all English LPAs of 21.72%. Given that ecology operates at a landscape scale, this could lead to a loss of landscape-level connectivity between ecosystems. It is also likely to lead to higher levels of development on the boundaries of national parks, exacerbating pressures on these already under-pressure locations.

4 Do you agree that we should reverse the December 2023 changes made on character and density and delete paragraph 130?

No

Please explain your answer:

Not entirely.

Higher densities for new development are generally to be welcomed, particularly where they reduce pressure on ecologically valuable areas, there need to be safeguards so that residents in high density areas have sufficient access to good quality greenspace and chances to engage with nature to ensure health and wellbeing. Any policy to increase density needs to build in green and blue spaces for communities and biodiversity in urban areas.

5 Do you agree that the focus of design codes should move towards supporting spatial visions in local plans and areas that provide the greatest opportunities for change such as greater density, in particular the development of large new communities?

Not Answered

Please explain your answer:

6 Do you agree that the presumption in favour of sustainable development should be amended as proposed?

Yes

Please explain your answer:

We agree that the presumption in favour of sustainable development should be amended as proposed and as follows.

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF.

For example:

NPPF #7 explains the purpose of the planning system as being to contribute to 'sustainable development' which #8 then translates into three 'objectives' (each of which can thus give way to the others in any particular case), only one of which is 'environmental' and that is merely an 'objective' to 'protect and enhance our natural ... environment' (in circumstances where 'protect and enhance' has been taken to be satisfied by something which merely makes the position no worse).

NPPF #9 requires delivery of those objectives through local plans/policies.

NPPF #11 then provides for a specific 'presumption in favour of development' (i.e. development in general) to be promoted through local plans (#11a/c), which particularly allows for housing development unless there is a 'strong reason' to refuse or harms would 'significantly outweigh benefits' (##11b/c) and, where the plan is out of date or does not cover the development in issue, mandates the grant of planning permission unless policies that protect areas of particular importance 'provide a clear reason for refusal' or the harm (including environmental harm) significantly outweighs the benefits(#11d). Those provisions thus encourage/permit development on the basis that it is 'sustainable' (but where the objective of protecting (let alone enhancing) our natural environment has been outweighed by the other (economic and social) objectives) or because the environmental harm is not considered to provide a 'strong reason' for refusal or 'significantly outweigh' the identified benefits.

We say nothing about the merits or otherwise about the developments in question or about the benefits which they might bring. The point is that those 'benefits' have thus inevitably been secured at the expense of nature and the environment.

As above, the planning system has incrementally and cumulatively helped to destroy our natural environment and also allowed for schemes which contribute to climate change and undermine adaptation to climate change (and thus indirectly further harm nature).

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them.

They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

We would, in particular request that - having regard to the statutory regimes which (as above) require environmental improvement and positive action on climate change mitigation and adaptation - the Secretary of State amends the NPPF #11 presumption in favour of development.

That presumption should only apply (and indeed development should only be permitted) where the development (directly or indirectly) positively contributes to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development). Sometimes, those things will be secured through the BNG regime. But generally, more will be required if planning permission is to be granted. Those requirements need to be secured by all development control decisions (whether being determined in accordance with local plan policies or despite local plan policies).

The simple point is that the planning system should be contributing to securing the statutory purposes of the legal regimes relating to nature and climate (including those above) not acting to undermine them as is the position now.

Consideration of those things should take into account both the direct and indirect effects of all developments (and not just those with particularly large energy and/or water needs such as data centres, and those with particularly large downstream environmental impacts such as petroleum extraction). In relation to GHG emissions that must include not just scope 1 emissions (i.e. direct emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply or other fuel input required by the development or implied by its transport requirements) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In relation to water usage that must include the direct and indirect environmental effects of securing the necessary water supply.

We welcome the statement "that permission should be granted unless doing so would cut across protections for safeguarded areas, like National Parks and habitat sites, or the adverse impacts would 'significantly and demonstrably' outweigh the benefits when assessed against the NPPF taken as a whole".

This should be expanded specifically to include Sites of Special Scientific Interest, Special Protection Areas, Special Areas of Conservation and to incorporate environmental features and assets as well as areas - for instance protected species (including species and habitats listed under the NERC Act 2006), water quality standards, water availability, flood mitigation, climate mitigation and adaptation, and air pollution.

We would also note that there remain areas where environmental limits are still not adequately incorporated into the planning system, in particular for ancient trees and protected species.

The 'Environmental Improvement Plan 2023' includes the following commitment to:

"Review the National Planning Policy Framework (NPPF) to ensure that it is being implemented correctly for ancient and veteran trees and ancient woodland, and consult on wording in the NPPF at a future date to ensure the strongest protection for these habitats". This commitment should be retained and acted upon promptly.

Species listed under the NERC Act 2006 - 'priority species' - are notionally protected as the NPPF states that "plans should.....promote the ..... protection and recovery of priority species". In practice plans rarely provide this protection and the development approval process is haphazard in its application of safeguards for these species.

We believe that there should be a review of the functioning of protections for NERC Act protected species in the planning system and recommendations should be brought forward that will: provide for effective strengthening of the related biodiversity duty; ensure that it is a duty of every planning authority to have due regard to the protection and recovery of these species; and ensure that the NPPF is sufficient in requiring these species to be taken into account at all stages.

Species listed under the Wildlife and Countryside Act 1981 receive more prescriptive protection, for instance as applied to the protection of populations of Water Voles. However, the lists of protected animal and plant species are now very out of date.

The last time the lists of protected species were updated was in 2011, and this was on the basis of recommendations made in the 5th Quinquennial review submitted in 2008. The 6th Quinquennial review submitted in 2014 was entirely ignored in England, and no recommendations were adopted, rejected or responded to by Defra.

The latest statutory agency formal advice setting out which species are at risk of extinction and hence qualify for protection - the 7th Quinquennial Review of Schedule 5 and Schedule 8 of the Wildlife and Countryside Act -was submitted to the Government on 19 April 2022. Not only has this advice not been acted upon, it has also not been laid before both houses of Parliament, as required by section 23(3) of the Act.

Clearly a development could not be classified as 'sustainable' if it contributed to the extinction of a species, yet with the lists of protected species now 16 years out of date the planning system cannot be relied upon to prevent unsustainable development.

Paragraph 11 of the NPPF is highly significant as it sets out criteria by which NPPF proposals for development on unallocated sites might be approved. In the absence of up-to-date local plans and with proposed higher housing targets for most areas, this paragraph will become ever more critical to decision making. There are three issues with the wording.

First, the government's proposals will significantly increase the need for land that is allocated for development. Since there will be inevitable delays in making local plans to allocate this land via a series of strategic criteria, higher housing targets are likely to push many Local Planning Authorities into 'tilted balance' scenarios, in which there is a presumption in favour of development unless there is a clear reason for refusal. This tilts the balance away from social and environmental protection and towards development. In fact, the text of the consultation explicitly recognises that this will be the case. This means that the next few years will see a 'free-for-all' in terms of unallocated sites, often in sensitive locations, being brought forward for development, with the presumption in favour of approval, completely undermining the strategic allocation of land. This will have significant impacts on

nature protection, open space, and undermine broader goals for sustainable development. The UK has existing legal commitments to protect nature which the NPPF should not undermine.

Second, whilst Paragraph 11 provides reasons to reject development proposals on unallocated land where they affect protected sites, these are narrowly defined at present (SSSIs, SPAs, Ramsar Sites, and irreplaceable habitats). However, we know that alongside meeting housing need, we also need to allocate land for nature recovery, particularly if the UK is to meet its 30x30 commitments.

Third, It is unclear how the proposed changes will interface with Local Nature Recovery Strategies, which are still under development in many areas and will take time to come into effect. The paragraph should, at the very least, state that the allocation of land for nature recovery represents a sound reason to refuse development on or nearby those allocations.

7 Do you agree that all local planning authorities should be required to continually demonstrate 5 years of specific, deliverable sites for decision making purposes, regardless of plan status?

No

Please explain your answer:

The development of a local plan involves a weighing and balancing of priorities and the application of environmental limits to land allocation. It is also subject to extensive consultation and engagement with the public, government bodies and experts. This proposal would require Local Authorities with an existing plan that was successfully delivering the housing targets to undertake an annual reassessment and consultation process to update the housing supply plans in the local plan. In practice they would need to have already identified and allocated 4 years' worth of housing supply before the production of their next plan.

Turning housing allocation from a periodic process into a rolling programme is likely to:

- 1) place significant additional resource strain on planning departments, reducing their capacity to deliver new approvals and helping proposals to become acceptable;
- 2) reduce the importance and quality of the holistic strategic assessment of priorities that is enabled by the periodic development of a new plan;
- 3) reduce the democratic engagement with the allocation of local land, contrary to the requirements of the Aarhus Convention;
- 4) reduce the likelihood that local plans will include large-scale new settlement type developments;
- 5) increase the risk of development creep and the jeopardy faced by environmental limits, particularly where there are cumulative risks;
- 6) consequently, increase the risk of local objection and legal challenge to decision, with resulting impacts on the resources of planning teams and reduced certainty for developers.

We are concerned that the risks to environmental limits and loss of strategic democratic engagement will be significantly increased by this proposal, while it is unclear if this will result in any net increase in build rates.

The mere allocation of new land for development does not, in itself, lead to more development. There are many reasons for undersupply of new housing, most of which are outside the control of local planning authorities: economic conditions, demand-side factors, and the nature and structure of the house building and land trading industries. Boosting the requirement for a continual 5-year supply is likely to lead to more land trading and higher levels of land banking. As this will do little to tackle undersupply of housing on existing, allocated sites, local planning authorities will be forced to allocate ever more ecologically-valuable land in more unsustainable locations.

8 Do you agree with our proposal to remove wording on national planning guidance in paragraph 77 of the current NPPF?

No

Please explain your answer:

See answers to 6 and 7.

9 Do you agree that all local planning authorities should be required to add a 5% buffer to their 5-year housing land supply calculations?

No

Please explain your answer:

No, see response to Question 7.

10 If Yes, do you agree that 5% is an appropriate buffer, or should it be a different figure?

Not Answered

Please explain your answer if you believe a different % buffer should be used:

11 Do you agree with the removal of policy on Annual Position Statements?

Not Answered

Please explain your answer:

12 Do you agree that the NPPF should be amended to further support effective co-operation on cross boundary and strategic planning matters?

Yes

Please explain your answer:

Many environmental assets are affected by cross boundary factors eg pollution, visual impacts, water provision, flooding, barriers to migration. In principle we believe that strengthening cross boundary cooperation is a good thing, however proposed new text is too narrow in its scope.

The draft paragraph 27(a) of the NPPF should also include:

- 1) Climate change adaptation and mitigation;
- 2) Environmental protection (in addition to the already listed environmental improvement and resilience) and Local Nature Recovery Strategies.

Not including these factors risks diluting the level of priority given to biodiversity and climate change. Climate change and environmental protection, improvement and resilience should also feature strongly in the tests of soundness applied by plan inspectors.

We believe these paragraphs should refer to ensuring cooperation so as to achieve the outcomes set out in Local Nature Recovery Plans and ensuring cooperation on reducing light pollution.

Over the past 13 years, the absence of effective regional or sub-national planning and reliance on the duty to cooperate has broadly failed to direct development to the most sustainable locations. (At present, too much development is unjustifiably defined as "sustainable": for example, on sites where there is no or very limited public transport to the site, necessitating the use of cars).

Whilst the proposals for new Strategic Development Strategies outlined in the consultation document are broadly to be welcomed, there is scant detail about how these will operate. Most significantly, within the field of nature conservation, the introduction of Local Nature Recovery Strategies (LNRS) provides an opportunity for more strategic and effective planning for habitat and biodiversity enhancement. So far, these have been largely separated from 'mainstream' strategic planning. Local Planning Authorities are only required to 'have regard to' LNRS when making plans, a weak formulation that is likely to lead to LNRS playing a diminished role when making decisions about land use. Nature recovery and environmental protection need to be integrated fully into a framework of strategic land-use planning, and not be siloed away from other crucial arenas for deciding where development should go. At the least, the NPPF should explicitly mention LNRSs and other nature designations in this section.

13 Should the tests of soundness be amended to better assess the soundness of strategic scale plans or proposals?

Yes

Please explain your answer:

We agree that the planning system should enable long term and ambitious planning. This is of increasing importance in addressing long term crises of biodiversity loss and climate change. The wording of paragraph 35 of the current NPPF appears adequate for this purpose.

We would hope that the inspectors will as a matter of course include in their assessment of the plan whether the plan has taken into account the Local Nature Recovery Strategy, has considered climate change forecasts and has incorporated appropriate and effective policies in relation to adapting both the built and natural environment to future flooding, temperature, water availability, storms, pollution and coastal change.

14 Do you have any other suggestions relating to the proposals in this chapter?

Please provide any other suggestions relating to the proposals in this chapter. :

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For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF. For example:

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We say nothing about the merits or otherwise about the developments in question or about the benefits which they might bring. The point is that those 'benefits' have thus inevitably been secured at the expense of nature and the environment.

As above, the planning system has incrementally and cumulatively helped to destroy our natural environment and also allowed for schemes which contribute to climate change and undermine adaptation to climate change (and thus indirectly further harm nature).

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them. They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

We would, in particular request that - having regard to the statutory regimes which (as above) require environmental improvement and positive action on climate change mitigation and adaptation - the Secretary of State amends the NPPF #11 presumption in favour of development.

That presumption should only apply (and indeed development should only be permitted) where the development (directly or indirectly) positively contributes to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development). Sometimes, those things will be secured through the BNG regime. But generally, more will be required if planning permission is to be granted. Those requirements need to be secured by all development control decisions (whether being determined in accordance with local plan policies or despite local plan policies).

The simple point is that the planning system should be contributing to securing the statutory purposes of the legal regimes relating to nature and climate (including those above) not acting to undermine them as is the position now.

Consideration of those things should take into account both the direct and indirect effects of all developments (and not just those with particularly large energy and/or water needs such as data centres, and those with particularly large downstream environmental impacts such as petroleum extraction). In relation to GHG emissions that must include not just scope 1 emissions (i.e. direct emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply or other fuel input required by the development or implied by its transport requirements) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In relation to water usage that must include the direct and indirect environmental effects of securing the necessary water supply.

None of the proposals in this chapter addresses the failure of applicants to build out their approved housing development. There should be sticks and carrots to ensure that land with planning permission is not simply banked for private profit.

Environmental limits mean that at a local level the capacity for new housing can be strictly limited to avoid irreparable harm to habitats and species or deterioration of everyone's environmental health. In such situations, where there is an un-built planning permission for a large scale development, the local authority is unable to allocate alternative land for housing because if both developments were built their cumulative effects would exceed environmental limits. This results in the holder of the planning permission having an effective monopoly on local housing supply, so is able to wait until demand exceeds supply to the extent that the profitability of the sale of the land and/or the house sales is maximised.

We note that the Competition and Markets Authority is currently undertaking an investigation titled "Investigation into suspected anti-competitive conduct by housebuilders", which is looking at whether the house builders share data in a way that makes their monopoly on house prices more than local.

By some estimates 500,000 to 800,000 houses are currently permitted but not yet built. A housing industry report and 'The Role of Land Pipelines in the UK Housebuilding Process' (ChamberlainWalker and Barratt Developments Plc., 2017) has estimated that to maintain profits at elevated rates of housing build the sector should hold a land bank of over 1.25 million planning permissions.

However, about 50% of land with planning permissions is not even in the hands of developers, sometimes planning permission can be obtained simply to be able to secure loans against increased asset values. There is a risk that a ballooning land bank will strangle future provision of land for housing and will place undue pressures on other land, including land needed for nature and public access.

It would be possible in the NPPF to encourage planning authorities to make use of completion orders to ensure that local housing development is not blocked by land banking. It would also help if the NPPF encouraged planning authorities to develop and apply policies that reduce the risk of local monopolies on new housing development. For instance by encouraging the splitting of large development schemes between house builders and discouraging single large builds of over 100 units in favour of multiple, smaller developments; smaller plots tend to be built quicker and to be more profitable. This could be achieved by strengthening and adding to the wording of the current paragraph 70 of the NPPF.

Targeting the issue of land banking and local monopoly would reduce the overall pressure on land and would support more competitive house pricing.

## Chapter 4 – A new Standard Method for assessing housing needs

15 Do you agree that Planning Practice Guidance should be amended to specify that the appropriate baseline for the standard method is housing stock rather than the latest household projections?

Not Answered

Please explain your answer:

16 Do you agree that using the workplace-based median house price to median earnings ratio, averaged over the most recent 3 year period for which data is available to adjust the standard method's baseline, is appropriate?

Not Answered

Please explain your answer:

17 Do you agree that affordability is given an appropriate weighting within the proposed standard method?

Not Answered

Please explain your answer:

18 Do you consider the standard method should factor in evidence on rental affordability? If so, do you have any suggestions for how this could be incorporated into the model?

Not Answered

Please explain your answer:

19 Do you have any additional comments on the proposed method for assessing housing needs?

Please provide any additional comments on the proposed method for assessing housing needs.:

## Chapter 5 – Brownfield, grey belt and the Green Belt

20 Do you agree that we should make the proposed change set out in paragraph 124c, as a first step towards brownfield passports?

No

Please explain your answer:

No

Unfortunately, and we have been here before, this proposal overlooks the main problem with a 'brownfield first' policy, which is the enormous importance that many 'previously developed sites' have for biodiversity. Often 'previously developed sites' will support more red listed and endangered species than any other sites in the local/alternative sites area. Dozens of English species are entirely dependent on 'brownfield' sites and would be driven to extinction by any category-based, wild-west, free-for-all development policy.

Many of England's most important remaining areas of highest biodiversity significance have been created by human activity. The Norfolk Broads is a National Park that centres on former mineral extraction sites and around the country quarries, gravel pits, spoil areas, silt lagoons and former industrial areas now form essential refuges and stepping stones for biodiversity. While many are now SSSIs or nature reserves, many are also in private ownership and completely unprotected.

In addition, the current 'previously developed land' definition also includes large areas of the natural countryside, for instance Salisbury Plain (which is perhaps our most important single area lowland grassland) and Otterburn Ranges (which covers nearly a quarter of Northumberland National Park) are both areas which qualify as previously developed land.

Land allocation in local plans should therefore not be on a categorical basis, but must be based on an assessment of merits.

Just as the consultation states that "Green Belt .... is not .... a marker of any environmental importance" so it is equally, indeed more, true that 'brownfield' is not a marker of any lack of environmental importance".

The question implies that we want to take a first step towards "brownfield passports". However it is not clear what a brownfield passport is and how it would function! We note the Defra discussion paper produced on 22 September that attempts to illuminate this ([https://assets.publishing.service.gov.uk/media/66ef1962d82c72546b9a8cc0/PLANNING\\_REFORM\\_WORKING\\_PAPER\\_-\\_BROWNFIELD\\_PASSPORT.pdf](https://assets.publishing.service.gov.uk/media/66ef1962d82c72546b9a8cc0/PLANNING_REFORM_WORKING_PAPER_-_BROWNFIELD_PASSPORT.pdf)) and which says:

"we think there is scope to make further policy changes, at both a national and local level, relating to the principle, scale, and form of development in different types of location. We see these potential changes as a form of 'brownfield passport': setting clear parameters which, if met, serve as accepted markers of suitability, with approval becoming the default and a swifter outcome."

And

"To provide more clarity, we are interested in whether national policy could take this 'in principle' support further. This would mean being explicit that development on brownfield land within urban settlements is acceptable unless specified exclusions apply".

It sounds from the additional paper as if there would be a single national 'passport' rather than 'passports' and that this would exist at a national policy level and not at a plan or site level (the latter would simply be an allocation!). The paper does clarify that the 'passport/s' would only apply in urban areas, this distinction is not clear from the NPPF consultation and the distinction should be applied across any changes to the NPPF in relation to 'brownfield' development. However, confining the drive for development to urban, or in practice often peri urban, sites does not remove all key biodiversity from the line of fire.

Brownfield sites in urban setting can become important open green spaces and recreational areas, but they can also be private and unvisited. Biodiversity on sites in the latter category is particularly vulnerable. Usually there will be no history of biodiversity recording to rely upon so the relative importance of the site to meeting the most relevant national statutory environment target - "The long-term biodiversity target for species' extinction risk is to reduce the risk of species' extinction by 2042, when compared to the risk of species' extinction in 2022." will be unknown.

A good example of this is Swanscombe Peninsula. This largely previously developed site on the edge of an urban area on the south side of the Thames was designated as a NSIP by the SoS with no prior assessment of the biodiversity significance of the site. Only through the development application process was the biodiversity information collated and assessed. It became immediately apparent that the site was of stunning national significance for rare, endangered and declining species, resulting in the designation of about 90% of the development area as an SSSI. The site is now in limbo with no clear future.

Brownfield sites should all be assessed for development potential on a merits basis and any category based 'passport' to development that does not properly assess the full range of environmental factors will cause harm to biodiversity.

It is not clear why this section is framed in terms of a "principle of development" rather than a principle of sustainable development. The latter would at least give the impression that the environmental merits of the development remain an important test to meet.

Properly safeguarding biodiversity through a standard planning application process will provide some safety net for biodiversity (although an inadequate safety net as demonstrated by the destruction of West Thurrock Marshes, Tilbury Marshes and most of the Chafford Hundred, on the north side of the Thames), but will not enable development on previously developed sites in urban areas.

The best way to facilitate the allocation of previously developed land for development in local plans by the planning authority would be to require and enable the authorities to undertake biodiversity assessments of previously developed land prior to the development of the local plan.

Planning Authorities are able to allocate land appropriately in relation to flood risk because they have flood risk maps on which to base their plan development, they do not have similar maps of the biodiversity loss risk because many sites are data black holes. Hence local plan allocations are often arbitrary in their consideration of the risk of biodiversity loss on previously developed land.

It should also be noted that in terms of reducing extinction risk the net biodiversity gain measures are of little help in relation to 'brownfield sites'. Previously developed sites are usually of biodiversity importance because of a large scale presence of low nutrient soils and open bare or sparsely vegetated land (although they can contain heathland, ancient woodland, open water bodies and any other priority habitat). The rarity of these habitats in the countryside is the reason they are now of such huge significance for biodiversity conservation, and the conditions that the species require would mean that any directly comparable habitat, suitable as a home for the displaced endangered species are prohibitively expensive to create in our high nutrient level countryside. For example, a coal spoil area is of importance to rare orchids and solitary bees because of the deep layers of nutrient poor, but mineral rich, sediments; reproducing these conditions at scale is now impossible as the source of the sediments no longer exists.

Biodiversity net gain in such circumstances is therefore likely to result in cheaper habitats being created that do not replicate the conditions required by the species threatened with extinction.

To solve the data gap the local authority could be empowered and resourced to undertake pre allocation biodiversity assessments of previously developed sites; in much the same way that local authorities currently undertake pre development allocation archaeological assessments.

The first step would be a screening assessment which would ascertain the potential biodiversity value of all previously developed sites in urban or peri-urban areas. This screening stage would largely be desk based using aerial photographs and pre-existing biodiversity data, although in some cases a site visit may be needed to better appraise the presence of absence of priority (NERC Act section 41) habitats on the site. Most sites could on that basis be declared free of significant biodiversity loss risk and could, other considerations being similarly affirmative, be allocated for development. Similarly the screening process may reveal sufficient data to identify a small number of the sites as being of too great a significance for biodiversity to be developed. The remaining sites would be in a 'data deficient' category, they may or may not be of significant importance to biodiversity, or the importance biodiversity on the site may only occur on an unknown portion of the site. These sites would then be subject to a detailed species and habitat survey by the planning authority, to properly assess the extent of priority habitats and the presence or absence of protected or endangered species. On the basis of the resulting data the local authority would be able to make an informed decision about the allocation of the sites in the local plan.

This proposal serves both the national target of reducing extinction risk and the national target for house building. With adequate data to apply at the plan making stage the local authority will be better able to allocate brownfield areas of high biodiversity significance to biodiversity protection and low areas to development. It also increases certainty for developers, it will be much less likely that sites allocated for development are then found, through the application process, to be of national or international significance for biodiversity conservation, and hence not appropriate for development.

The assumption made in the revised NPPF is that all brownfield land is of low ecological value. This is a mistake, and has long been exploded in scientific literature, with increasing recognition of the ecological value that some brownfield land has in terms of biodiversity and for protected species. Nonetheless, the planning system continues to underestimate the value of brownfield land for nature.

The amendment contained in paragraph 122 stating that proposals on brownfield land 'should be regarded as acceptable in principle' set a worrying precedent that removes the principle that development should be considered in relation to the site itself and the impact of the proposed development, including its effects on ecology.

A central principle of planning must be that land allocation should respond to the ecological conditions that prevail on a site, not on arbitrary taxonomies of land or definitions based on previous development. Automatically approving applications on brownfield land would therefore be a deeply retrograde move ecologically.

There are also some contradictions in the suggested policy. Paragraphs 183 and 186 of the NPPF outline a presumption against development in National Parks and that affecting SSSIs. Where SSSIs have been designated on brownfield land there is therefore no mechanism for decision makers to interpret which paragraphs (122 or 183) should take precedence.



The ability of the planning system to consider ecology should not be limited to the application of Biodiversity Net Gain, even at a higher percentage gain than is currently offered. The planning system is fundamentally negotiative, and this negotiation is vital for improving ecological outcomes. The algorithmic/calculative logic of BNG is intended to reduce the potential for negotiation between ecological stakeholders (including the community) and is likely to worsen outcomes if it is applied as the sole guarantor of good ecological development.

21 Do you agree with the proposed change to paragraph 154g of the current NPPF to better support the development of PDL in the Green Belt?

No

Please explain your answer:

Where a development proposal is a like-for-like one it is likely to be approved regardless of its position in the green belt, where the development proposal is likely to have different impacts on landscape or any other policies it should be assessed against the local plan policies. Creating another categorical level for every policy in the local plan to have to address separately is likely to make the local plans harder to produce and understand, while having little or no impact on outcomes.

22 Do you have any views on expanding the definition of PDL, while ensuring that the development and maintenance of glasshouses for horticultural production is maintained?

Please provide any further views:

We do not agree that the proposed changes are beneficial.

In the current definition most car parks would be included as previously developed land as they would be within the curtilage of a building and would have required a development application. Where there is no associated building then the car park should not be considered to be previously developed land. We believe this distinction should be maintained.

While glasshouses used for horticulture are excluded from the current definition of previously developed land, glasshouses used for commerce usually have concrete bases and can be considered to be permanent structures. Similarly non-agricultural hard standing would usually be in the curtilage of a building and subject to a previous development decision and hence would be previously developed land. Defining this further is likely to raise many complex questions around poly tunnels and free draining surfacing that will be difficult to resolve clearly. The ultimate effect may be to make gentle development harder to approve, without enabling any increase in house building.

In some parts of England there has been a recent and rapid expansion of glasshouse and polytunnel forms of agriculture to grow crops. The planning system has not yet been able to get across this change and grapple with its implications, though they are potentially quite serious, for example in relation to water abstraction in areas where this is an increasingly scarce resource.

Anecdotally, in some areas this boom in glasshouse agriculture is pulling sites that have previously been undeveloped, e.g. for topographic reasons, into use. The ecological implications of this expansion on these sites are largely unknown, with very little current research in this area to remedy this. It would be a mistake, therefore, to designate these pieces of land, many of which have been newly converted to glasshouse/polytunnel horticulture, as 'previously developed' such that they can be developed for housing.

Further, this policy is open to abuse, with people using conversion to glasshouse horticulture as a means of obtaining planning permission. Decision-making should be on a case by case basis to prevent this.

23 Do you agree with our proposed definition of grey belt land? If not, what changes would you recommend?

No

Please explain your answer:

The land in 'grey belt' will still be in the 'green belt' and hence will still be subject to green belt policies, it would appear that the only purpose of defining an area as grey belt is to include the land category in a sequential approach to allocating housing. However, in practice only 0.3% of green belt land is developed for housing, so it is very unlikely that the merits assessment of grey belt land is likely to conclude that housing is an appropriate outcome.

In other words this risks being a time consuming rearrangement of the chairs, the resource implications of which are likely to outweigh any increase in house building.

We are not inherently opposed to building housing in the greenbelt, in some locations the green belt could be encroached with negligible impact to biodiversity, landscape or amenity, but we are sceptical of this approach to releasing more land.

Should you proceed with this definition then the 'grey belt' definitely needs to exclude land identified in the Local Nature Recovery Strategy as being important for biodiversity or suitable for nature restoration.

The definition as currently proposed is loose. It not only includes brownfield/previously developed land, but also includes parcels of land that are deemed not to contribute to green belt functions. The Green Belt is a strategic landscape policy, yet the definition of 'grey belt' has the potential to include small parcels of land distributed across the existing Green Belt. This is not a strategic designation, and enabling piecemeal definition of 'grey belt' on a site-by-site basis undermines the strategic purpose of the Green Belt.

Such piecemeal definition on a site-by-site basis, and only against existing Green Belt criteria, risks undervaluing the nature contribution of these

individual sites, both as they exist now and in terms of their potential for nature recovery. If 'grey belt' is to become a policy designation, then the criteria by which they are assessed should include a criterion stipulating that it should not apply to land that has existing value or holds potential for nature recovery (including brownfield sites) (see also answer to Q.27).

Ecological surveys and data must be at the heart of identification of 'Grey Belt' land that is allocated for development, and a landscape-scale approach that considers the findings of LNRS must be taken.

24 Are any additional measures needed to ensure that high performing Green Belt land is not degraded to meet grey belt criteria?

Yes

Please explain your answer:

Providing a perverse incentive to ruin greenbelt land is a distinct risk of this policy, and previous experience with BNG baselines suggests that very strong regulation will be required to prevent this from happening. An approach should be adopted of refusing to allocate any site where there is clear evidence of deliberate land degradation, e.g. from satellite data. (Much as, with BNG, evidence of destruction leads to a higher baseline being applied).

Independent and robust ecological surveys financed by developers but commissioned by LPAs must be completed for all land at the stage at which it is allocated for development, whether in plans or as a result of speculative applications under the 'tilted balance'. Further ecological surveys may be necessary at later points in the planning process if sufficient time has elapsed that the ecology onsite has changed.

25 Do you agree that additional guidance to assist in identifying land which makes a limited contribution of Green Belt purposes would be helpful? If so, is this best contained in the NPPF itself or in planning practice guidance?

Yes and it should be contained within the NPPF

Please explain your answer:

Given the importance of this designation, guidance prioritising evidence-based ecological considerations must be provided in the NPPF itself.

26 Do you have any views on whether our proposed guidance sets out appropriate considerations for determining whether land makes a limited contribution to Green Belt purposes?

Yes

Please explain your answer:

The current NPPF states that Green Belts should "not include land which it is unnecessary to keep permanently open". This would mean that grey belt land should either already not be in the Green Belt, or should be removed from the Green Belt if it is currently open but development is considered appropriate.

As no single part of the Green Belt makes an unlimited contribution to the aim of the Green Belt, every part could be classed as making a limited contribution. Similarly, the phrase "Not strongly perform against any Green Belt purpose" is not explained and is highly subjective, it is unlikely that an examiner would be able to fault the application of the term by a planning authority, which may result in a wide range of interpretations within a single green belt and hence uncertainty for residents and developers.

So no, the definitions as they stand are vague and create a circular decision making process.

The definitions are based on very old-fashioned thinking in planning terms: they reflect a view of land and landscape that is visual and social rather than ecological. We need to move away from these outmoded ways of thinking, to develop new criteria for the Green Belt that understand the functional ecological contributions that sites make to nature networks. Ultimately, this is also about understanding that there aren't two worlds, one social and one ecological: all living beings inhabit the same planet, and human health, wellbeing - and ultimately survival - are inextricably interlinked with ecosystems.

27 Do you have any views on the role that Local Nature Recovery Strategies could play in identifying areas of Green Belt which can be enhanced?

Yes

Please explain your answer:

Local Nature Recovery strategies should identify the areas of Green Belts that can be enhanced these areas should be appropriately allocated in the local plan and policies introduced to encourage their restoration. In addition other agencies should have regard to the priorities identified, and preferably a duty to support them, for instance through the targeting of land management funds.

There is substantial risk that using existing Green Belt criteria based solely on visual landscape value will lead to sites being designated 'grey belt' with insufficient consideration of their value for nature recovery. In addition, the proposed mechanism for 'grey belt' land to be determined on a piecemeal basis through decision-making on individual applications runs counter to proper strategic consideration of land and its wider value for nature recovery. Combined, this will risk undermining Local Nature Recovery Strategies (LNRS). The already weak positioning of LNRS within the planning system (decision makers only needing to 'have regard' to them) could be further eroded through greybelt designation.

If 'grey belt' is to become a policy term, then an additional criterion should be included stipulating that it should not apply to land that has existing value or hold potential for nature recovery (including brownfield sites).

28 Do you agree that our proposals support the release of land in the right places, with previously developed and grey belt land identified first, while allowing local planning authorities to prioritise the most sustainable development locations?

No

Please explain your answer:

As noted in the answer to Q.23, 'grey belt' is not a strategic policy designation, by dint of the fact that it can apply to individual parcels of land and that this definition can be applied on a piecemeal basis through decisions on individual planning applications (in circumstances of low housing supply). It provides a disincentive for developers to build in urban areas, as doing so would enhance housing delivery and increase the likelihood of the Housing Delivery Test being met. Holding back on urban development and thus enabling LPAs to fail the Housing Delivery Test is a strategy that developers may use to open up Green Belt land for development. Fundamentally, this undermines the ability of LPAs to strategically plan for sustainable development.

29 Do you agree with our proposal to make clear that the release of land should not fundamentally undermine the function of the Green Belt across the area of the plan as a whole?

Yes

Please explain your answer:

Yes, in the sense that it is a good aim, but no, this wording doesn't do it.

It is unclear what the difference is between a slight erosion of the Green Belt and the fundamental undermining of the Green Belt. Gradual slight erosion is allowed, but fundamental undermining of the Green Belt is not allowed, yet the long term effect of slight gradual erosion will be the fundamental undermining of the Green Belt.

It is best for the sake of planner sanity, public confidence, inter-plan consistency and developer certainty to not introduce new paradoxes to the already complicated planning system.

Release of Green Belt land through local plan review already takes into account the function of individual parcels of land and their contribution to the Green Belt as a whole. The problem with these proposals is that the definition of 'grey belt' raises pressure in terms of enabling piecemeal release of small parcels of land. This tension will not be easily managed through the plan-making process, with the likelihood that numerous small sites in the Green Belt will be brought forward by landowners for consideration, slowing plan-making processes. It also has the potential to reduce focus on other aspects of land, including taking into account its value for nature recovery.

30 Do you agree with our approach to allowing development on Green Belt land through decision making? If not, what changes would you recommend?

Not Answered

If not, what changes would you recommend?:

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain). That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF.

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them.

They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity. We consider that development should only be permitted in the green belt where it (directly or indirectly) positively contributes to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development). Sometimes, those things will be secured through the BNG regime. But generally, more will be required if planning permission is to be granted. Those requirements need to be secured by all development control decisions (whether being determined in accordance with local plan policies or despite local plan policies).

Consideration of those things should take into account both the direct and indirect effects of all developments (and not just those with particularly large energy and/or water needs such as data centres, and those with particularly large downstream environmental impacts such as petroleum extraction). In relation to GHG emissions that must include not just scope 1 emissions (i.e. direct/indirect emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply or other fuel input required by the development or implied by its transport requirements) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In relation to water usage that must include the direct and indirect environmental effects of securing the necessary water supply.

It is important that Green Belt decisions and policies have local support and this is achieved through the development of the local plan. Ad hoc decision-making risks appearing arbitrary and undemocratic and is contrary to the principles of the Aarhus Convention.

Strategic and land allocation decision making on development in Green Belts should be undertaken through the development of policies in local plans and decision making by planning authorities should be based on the application of democratically consented policies.

We believe the potential area of land in Green Belts that are suitable for housing without resulting in the undermining of the green belt are going to be very small, and there is nothing to be gained by forcing ad hoc decision making.

No, this is likely to be deeply problematic. It enables development to proceed in the Green Belt without full consideration through strategic planning processes. Site-by-site release will undermine the wider function of the Green Belt and may affect wider processes of defining land as valuable for nature recovery, particularly through LNRs.

31 Do you have any comments on our proposals to allow the release of grey belt land to meet commercial and other development needs through plan-making and decision-making, including the triggers for release?

Yes

Please explain your answer:

All the above factors that lead us to object to the release of grey belt land for housing also apply to commercial and other development needs.

32 Do you have views on whether the approach to the release of Green Belt through plan and decision-making should apply to traveller sites, including the sequential test for land release and the definition of PDL?

Not Answered

Please explain your answer:

33 Do you have views on how the assessment of need for traveller sites should be approached, in order to determine whether a local planning authority should undertake a Green Belt review?

Not Answered

Please explain your answer:

34 Do you agree with our proposed approach to the affordable housing tenure mix?

Not Answered

Please explain your answer:

35 Should the 50 per cent target apply to all Green Belt areas (including previously developed land in the Green Belt), or should the Government or local planning authorities be able to set lower targets in low land value areas?

Not Answered

Please explain your answer:

36 Do you agree with the proposed approach to securing benefits for nature and public access to green space where Green Belt release occurs?

Yes

Please explain your answer:

Yes and No!

The proposal to secure benefits for nature when land is released from the Green Belt is to be supported. In too many housing developments, there is inadequate opportunity for residents to access nature. It is to be welcomed that the revised NPPF (paragraph 156) outlines standards to be met for this compensatory land. The experience of requiring Suitable Alternative Natural Greenspaces (SANGs) to reduce impact on protected habitats, when appropriately planned, shows the value of high quality spaces close to residential development.

However, the consultation document assumes that opening up access and enhancing nature are easily delivered. This should be the ambition - that members of the public have access to spaces that are of high quality both for nature and people. It should, though, be borne in mind that these twin objectives can come into conflict. We know of developments that have been approved next to ancient woodland, but intensity of use and a lack of suitable alternative greenspace for residents have diminished the ecological value of this woodland. The NPPF should stress the need to plan carefully to both deliver high quality greenspaces and protect nature.

The wording of the NPPF para 155 does not mention 'nature' but only access to green spaces. This is at odds with the description in the consultation document. There needs to be clarity about the objectives to be secured through the 'golden rules', and this should include enhancement of nature.

As currently set out the Golden Rules are very weak on providing nature benefits. The proposal is stronger on requiring access to nature for people than in providing direct benefits to biodiversity. The key national nature targets that should be assisted by the Golden Rules include:

- 1) Furthering the conservation of species and habitats listed in the NERC Act – The Defra Secretary of State has a legal duty to promote such action;
- 2) reducing the risk of species' extinction by 2042, when compared to the risk of species' extinction in 2022 - The Environmental Targets (Biodiversity) (England) Regulations 2023;
- 3) in excess of 500,000 hectares of a range of wildlife-rich habitats are to be restored or created by 31st December 2042 - The Environmental Targets (Biodiversity) (England) Regulations 2023;
- 4) the overall relative species abundance index on the specified date indicates that the decline in the abundance of species has been halted - The Environmental Targets (Biodiversity) (England) Regulations 2023;
- 5) the overall relative species abundance index by 31st December 2042 is (a) higher than the overall relative species abundance index for 31st December 2022; and (b) at least 10% higher than the overall relative species abundance index for 31st December 2030) - The Environmental Targets (Biodiversity) (England) Regulations 2023.

These targets should to a significant extent be delivered through the Local Nature Recovery Plan.

It would appear to be prudent for the Golden Rules to include a requirement to secure progress towards the delivery of the conservation of Section 41 species and habitats, the delivery of the Environmental targets (Biodiversity) and the implementation of the Local Nature Recovery Strategy in the Green Belt whenever land is released from the Green Belt.

37 Do you agree that Government should set indicative benchmark land values for land released from or developed in the Green Belt, to inform local planning authority policy development?

Not Answered

Please explain your answer:

Again, this is a policy that needs to be considered alongside allocation of land for nature recovery in LNRS. The creation of 'hope value' in greenbelt land may have economic implications for strategies to conserve land for nature, including for biodiversity and carbon offsetting. These implications need to be fully investigated and understood.

38 How and at what level should Government set benchmark land values?

Please explain your answer:

39 To support the delivery of the golden rules, the Government is exploring a reduction in the scope of viability negotiation by setting out that such negotiation should not occur when land will transact above the benchmark land value. Do you have any views on this approach?

Not Answered

Please explain your answer:

40 It is proposed that where development is policy compliant, additional contributions for affordable housing should not be sought. Do you have any views on this approach?

Please explain your views on this approach:

41 Do you agree that where viability negotiations do occur, and contributions below the level set in policy are agreed, development should be subject to late-stage viability reviews, to assess whether further contributions are required? What support would local planning authorities require to use these effectively?

Not Answered

Please explain your answer, including what support you consider local authorities would require to use late-stage viability reviews effectively:

42 Do you have a view on how golden rules might apply to non-residential development, including commercial development, travellers sites and types of development already considered 'not inappropriate' in the Green Belt?

Not Answered

Please explain your answer:

43 Do you have a view on whether the golden rules should apply only to 'new' Green Belt release, which occurs following these changes to the NPPF? Are there other transitional arrangements we should consider, including, for example, draft plans at the regulation 19 stage?

Not Answered

Please explain your answer:

44 Do you have any comments on the proposed wording for the NPPF (Annex 4)?

Not Answered

Please explain your answer:

45 Do you have any comments on the proposed approach set out in paragraphs 31 and 32?

Not Answered

Please explain your answer:

46 Do you have any other suggestions relating to the proposals in this chapter?

Not Answered

Please explain your answer:

Provision of biodiversity improvements, the creation of public access nature areas and the delivery of net biodiversity gain may also involve the purchase of land. The costs of all such acquisitions and associated habitat work should be considered by any viability assessment. In addition, it may be beneficial to consider if the land value of such land should be treated separately to that on which the permission to develop is sought.

## Chapter 6 – Delivering affordable, well-designed homes and places

47 Do you agree with setting the expectation that local planning authorities should consider the particular needs of those who require Social Rent when undertaking needs assessments and setting policies on affordable housing requirements?

Not Answered

Please explain your answer:

48 Do you agree with removing the requirement to deliver 10% of housing on major sites as affordable home ownership?

Not Answered

Please explain your answer:

49 Do you agree with removing the minimum 25% First Homes requirement?

Not Answered

Please explain your answer:

50 Do you have any other comments on retaining the option to deliver First Homes, including through exception sites?

Not Answered

Please provide any further comments:

51 Do you agree with introducing a policy to promote developments that have a mix of tenures and types?

Not Answered

Please explain your answer:

52 What would be the most appropriate way to promote high percentage Social Rent/affordable housing developments?

Please explain your answer:

53 What safeguards would be required to ensure that there are not unintended consequences? For example, is there a maximum site size where development of this nature is appropriate?

Please explain your answer:

Safeguards could include an increased access to restored nature and a larger provision of open public space to mitigate for the density and inherent constraints in such developments.

54 What measures should we consider to better support and increase rural affordable housing?

Please explain your answer:

55 Do you agree with the changes proposed to paragraph 63 of the existing NPPF?

Not Answered

Please explain your answer:

56 Do you agree with these changes?

Not Answered

Please explain your answer:

57 Do you have views on whether the definition of 'affordable housing for rent' in the Framework glossary should be amended? If so, what changes would you recommend?

Not Answered

If Yes, what changes would you recommend?:

58 Do you have views on why insufficient small sites are being allocated, and on ways in which the small site policy in the NPPF should be strengthened?

Not Answered

Please explain your answer :

Research from The University of Sheffield suggests that small sites may be associated with a more difficult negotiation process from the perspective of environmental protections. It is important that small scale developers are given the resources to understand new policy, particularly when that policy is mandatory, e.g. Biodiversity Net Gain.

59 Do you agree with the proposals to retain references to well-designed buildings and places, but remove references to 'beauty' and 'beautiful' and to amend paragraph 138 of the existing Framework?

No

Please explain your answer:

Does this government not recognise and value beauty? Several existing planning authorities (eg National Parks and the Broads Authority) have a duty to conserve and enhance natural beauty. The reasons given here are not convincing.

60 Do you agree with proposed changes to policy for upwards extensions?

Not Answered

Please explain your answer:

61 Do you have any other suggestions relating to the proposals in this chapter?

Yes

Please explain your answer:

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF.

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them.

They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity. We consider that those paragraphs of the NPPF should also make clear that development of the kind they contemplate should only be permitted where it (directly or indirectly) positively contributes to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development). Sometimes, those things will be secured through the BNG regime. But generally, more will be required if planning permission is to

be granted. Those requirements need to be secured by all development control decisions (whether being determined in accordance with local plan policies or despite local plan policies).

Consideration of those things should take into account both the direct and indirect effects of all developments (and not just those with particularly large energy and/or water needs such as data centres, and those with particularly large downstream environmental impacts such as petroleum extraction). In relation to GHG emissions that must include not just scope 1 emissions (i.e. direct/indirect emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply or other fuel input required by the development or implied by its transport requirements) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In relation to water usage that must include the direct and indirect environmental effects of securing the necessary water supply.

## Chapter 7 – Building infrastructure to grow the economy

62 Do you agree with the changes proposed to paragraphs 86 b) and 87 of the existing NPPF?

Not Answered

Please explain your answer:

63 Are there other sectors you think need particular support via these changes? What are they and why?

Not Answered

Please explain your answer:

Yes, the provision and supply of land to secure nature recovery, in particular the establishment of nature networks, should be considered when developing local plans and land should be allocated to these purposes. The development of Local Nature Recovery Strategies should make this a straightforward read across.

64 Would you support the prescription of data centres, gigafactories, and/or laboratories as types of business and commercial development which could be capable (on request) of being directed into the NSIP consenting regime?

Not Answered

Please explain your answer:

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain). That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF.

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them.

They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

We are not opposed to proposals for data centres, giga factories or laboratories being treated as NSIPs provided that the applicable NPS provisions then make clear that such developments should only be permitted where they (directly or indirectly) positively contribute to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development). Sometimes, those things will be secured through the BNG regime. But generally, more will be required if planning permission is to be granted. Those requirements need to be secured by all development control decisions (whether being determined in accordance with local plan policies or despite local plan policies).

Consideration of those things should take into account both the direct and indirect effects of all developments (and not just those with particularly large energy and/or water needs such as data centres, and those with particularly large downstream environmental impacts such as petroleum extraction). In relation to GHG emissions that must include not just scope 1 emissions (i.e. direct/indirect emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply or other fuel input required by the development or implied by its transport requirements) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In relation to water usage that must include the direct and indirect environmental effects of securing the necessary water supply.

The inclusion of any additional development categories to the NSIP system should be by amendment of the 2008 Planning Act and should be accompanied by tailored qualification thresholds. The NSIP regime has been undermined by the provisions in the Growth and Infrastructure Act 2013



that enabled the SoS to designate a proposed development of almost any nature (although not housing) to be an NSIP, and to later take a decision as to whether or not to approve the development. This has allowed speculative schemes and pet projects to bypass the local democratic planning process. The opportunity should be taken to remove the power of the SoS to single handedly approve large developments that are not of an infrastructure nature.

65 If the direction power is extended to these developments, should it be limited by scale, and what would be an appropriate scale if so?

Not Answered

If Yes, what would be an appropriate scale? :

66 Do you have any other suggestions relating to the proposals in this chapter?

Not Answered

Please explain your answer:

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF.

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them.

They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

We consider that those paragraphs of the NPPF should also make clear that development of the kind they contemplate should only be permitted where it (directly or indirectly) positively contributes to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development). Sometimes, those things will be secured through the BNG regime. But generally, more will be required if planning permission is to be granted. Those requirements need to be secured by all development control decisions (whether being determined in accordance with local plan policies or despite local plan policies).

Consideration of those things should take into account both the direct and indirect effects of all developments (and not just those with particularly large energy and/or water needs such as data centres, and those with particularly large downstream environmental impacts such as petroleum extraction). In relation to GHG emissions that must include not just scope 1 emissions (i.e. direct/indirect emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply or other fuel input required by the development or implied by its transport requirements) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In relation to water usage that must include the direct and indirect environmental effects of securing the necessary water supply.

## Chapter 8 – Delivering community needs

67 Do you agree with the changes proposed to paragraph 100 of the existing NPPF?

Not Answered

Please explain your answer:

68 Do you agree with the changes proposed to paragraph 99 of the existing NPPF?

Not Answered

Please explain your answer:

69 Do you agree with the changes proposed to paragraphs 114 and 115 of the existing NPPF?

Not Answered

Please explain your answer:

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals. That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF. That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them. They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

NPPF #114 and #115 should also make clear that the development should only be permitted if the transport implications of the development directly or indirectly positively contribute to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development).

Consideration of those things should take into account both the direct and indirect effects of the transport implications (including additional highway usage) including in relation to fuel usage and transport emissions and pollution impacts (including through contributing to water runoff from roads and similar).

We need to move away from car dependency and towards safe, convenient, quick and sustainable forms of active travel. Whether a vision-led approach is the right way to achieve this is another question. The development of active travel infrastructure requires significant funding, and paying consultants large sums of money to develop beautiful plans will not change this basic material fact that a great deal of investment is needed to make this switch

70 How could national planning policy better support local authorities in (a) promoting healthy communities and (b) tackling childhood obesity?

Please explain your answer:

People with access to green space, nature and recreation areas will be more healthy. The provision of country parks, nature reserves and other facilities for outdoor recreation close to where people live will contribute to healthier communities. National policy could be strengthened to ensure that all planning authorities are making suitable provision for such facilities and that access to such places meets national targets.

The 'golden rules' provide an opportunity for doing this, but are partial and underplay the need to consider nature within the planning of new green space. They also only relate to the Green Belt, when it is just as important to ensure that all new developments, regardless of location, provide people with access to nature.

The planning system should deliver both green spaces for humans to thrive in nature AND spaces where nature has respite from human activity.

71 Do you have any other suggestions relating to the proposals in this chapter?

Not Answered

Please explain your answer:

## Chapter 9 – Supporting green energy and the environment

72 Do you agree that large onshore wind projects should be reintegrated into the NSIP regime?

Yes

Please explain your answer:

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals. That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF.

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them.

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The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

We support the proposal that onshore wind schemes be considered NSIPs provided that the applicable NPS provisions then make clear that such developments should only be permitted where they (directly or indirectly) positively contribute to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development). Sometimes, those things will be secured through the BNG regime. But generally, more will be required if planning permission is to be granted.

Consideration of those things should take into account both the direct and indirect effects of all developments (and not just those with particularly large energy and/or water needs such as data centres, and those with particularly large downstream environmental impacts such as petroleum extraction). In relation to GHG emissions that must include not just scope 1 emissions (i.e. direct/indirect emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In relation to water usage that must include the direct and indirect environmental effects of securing the necessary water supply.

73 Do you agree with the proposed changes to the NPPF to give greater support to renewable and low carbon energy?

Yes

Please explain your answer:

74 Some habitats, such as those containing peat soils, might be considered unsuitable for renewable energy development due to their role in carbon sequestration. Should there be additional protections for such habitats and/or compensatory mechanisms put in place?

Yes

Please explain your answer:

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

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But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

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The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

Given the key role that peat plays in terms of nature and climate change mitigation we cannot see any circumstance in which significant renewable or low carbon energy developments should be permitted on habitats containing peat soils. Peat is a carbon store that can only exist in certain places in the landscape and that takes centuries to form. The loss of peat soils undermines the climate benefits of any renewable energy scheme and such habitats should always be protected from all development.

Peat soils cannot be translocated or replaced within a human time scale. Proposals for wind farms on peat soils continue to be submitted and several have already been approved. There is a clear need for a greater protection of these habitats. Peatlands should be identified in the NPPF as being irreplaceable habitats (another strong candidate for such listing would be ancient woodland).

Maps of blanket bog are publicly available (Magic Map system <https://magic.defra.gov.uk/MagicMap.aspx> which has a layer showing extent of blanket bog under the Habitats and Species/Habitats/Wetlands/Blanket bog tabs) and should be promoted to developers as off-limit areas for renewable energy developments.

Scotland has a useful, evolving and imperfect carbon calculating tool for assessing windfarm applications on peat soils  
<https://www.gov.scot/publications/carbon-calculator-for-wind-farms-on-scottish-peatlands-factsheet/> .

Friends of the Earth and Exeter University have produced an analysis of sites suitable for onshore windfarms which excludes sites on peat soils and those sites designated for high nature conservation importance and have shown that there is abundant potential suitable land for windfarm development outside such areas - <https://friendsoftheearth.uk/climate/release-our-wind-tremendous-renewable-energy-potential-england> .

The envisaged West Yorkshire Calderdale Windfarm is proposed for an area almost entirely of blanket bog with deep peat and inside areas designated as SSSI, SAC and SPA – such plans might be considered as simply taking a business risk by the developer but they impose high costs on understaffed local planning departments, other government agencies and civil society which reduce the efficiency of the decision-making system.

Other developments on such habitats should only be permitted if the development directly or indirectly positively contribute to the natural environment (including through positive improvement to restoration of protected habitats, to meeting WFD water objectives, to the meeting of statutory EIP targets, to mitigating climate change and to adaptation to climate change relevant to the natural environment, to the extent that any or all of those arise in relation to the development).

Consideration of those things should take into account both the direct and indirect effects of the transport implications including in relation to fuel usage and transport emissions and pollution impacts (including through contributing to water runoff from roads and similar).

75 Do you agree that the threshold at which onshore wind projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50 megawatts (MW) to 100MW?

Not Answered

Please explain your answer:

76 Do you agree that the threshold at which solar projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50MW to 150MW?

Not Answered

Please explain your answer:

77 If you think that alternative thresholds should apply to onshore wind and/or solar, what would these be?

Please explain your answer:

78 In what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation?

Please explain your answer:

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF.

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them.

They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

Through plan making, development control and enforcement, the planning system should contribute to mitigating and adapting to climate change.

Local plan policies and development control decisions should ensure that development will only be permitted where the development (directly or indirectly) positively contributes to mitigating climate change and to adaptation to climate change relevant to the natural environment to the extent that arises in relation to the development. Consideration of those things must include not just scope 1 emissions (i.e. direct emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply or other fuel input required by the development or implied by its transport requirements) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In short, all new development must be better than carbon neutral.

Likewise, where an enforcement decision could have implications for climate change mitigation or adaptation, only outcomes which support those things will be acceptable.

Many species are currently heading towards extinction because the countryside is so fragmented that they had stopped dispersing to newly restored habitats. Climate change is making their current homes uninhabitable, but they have lost the ability to disperse to newly suitable habitats further north or in more suitable climatic areas. These species need networks of wildlife habitat across the countryside to provide the stepping stones they need to be able to move again. Nature networks will form part of the Local Nature Recovery Strategies and Local Plans should allocate land for nature networks and provide appropriate policies for such land.

Government policy should be tightened and planning authorities allowed to set higher standards. In particular the Target Emissions Rate assessment places too much weight on renewable power sourcing and insufficient weight on energy efficiency. The Government should support the adoption of planning standards based on Passivhaus type standards.

79 What is your view of the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions, and what are the challenges to increasing its use?

Please explain your answer:

This question is framed too narrowly. The starting point for carbon accounting in relation to housing needs to be a serious reckoning with the real carbon costs of an expansionist housing policy. Recent research estimates that a business as usual scenario in which 300,000 homes a year are delivered would consume 104% of England's cumulative carbon budget from 2022 to 2050 consistent with a scenario of 1.5 degrees of warming. In other words, more than the country's entire carbon budget would be expended on housing, which is clearly inconsistent with commitments to net zero. Retrofitting and redistributing existing stock (i.e. buy to let, second homes, use of housing as a financialised asset) is a far more effective policy to reduce carbon. Carbon offsetting should not be treated as not a 'magic bullet' to enable more house building while avoiding the carbon costs, since there are very serious questions over the accuracy of the calculations and the operation of carbon markets.

Ultimately, the question of carbon (and biodiversity) accounting raises a problem with the timescales over which we measure harm. Developers engage in major land use change over short windows of time to extract value from the production of housing as a commodity. This 'in and out' approach is incompatible with them being held responsible for the full effects of the land use change from which they profit: the short time windows over which they operate enable them to evade responsibility for many of the externalities that their actions produce. Any serious form of natural capital accountancy needs to wrestle with this problem.

80 Are any changes needed to policy for managing flood risk to improve its effectiveness?

Yes

Please explain your answer:

Flood risk is increasing because of climate change. Therefore, taking the drivers of climate change seriously right across the planning system is a good starting point for dealing with flood risk.

'Flood risk' is also 'pollution risk'. Much inland flooding is resulting from a situation in which our antiquated sewerage system is overwhelmed in conditions of heavy rainfall, which is also the reason for the unpopular release of untreated sewage into watercourses across the country, with highly detrimental impacts for ecology as well as human river users.

The current top-down approaches of the water industry need to be fully audited for their sustainability and biodiversity implications: large infrastructure projects are extremely expensive and often highly damaging in ecological terms. Government should fully explore development as an opportunity to deliver alternative nature-based solutions to flooding that can deliver benefits to communities, wildlife, and in terms of flood and pollution reduction. From the rewetting of uploads to nature-based SuDS (which are already being delivered on many development sites), flood reduction can be designed in such a way that they bring multiple benefits to both humans and wildlife.

There are also opportunities to introduce bottom-up initiatives that bring action from communities: development projects involving micro-interventions that can relink communities to water should be explored, e.g. raingardens, water butts, devices to reduce domestic water usage. In terms of design, developments can be improved so that they are less water intensive, e.g. by reducing the number of bathrooms, installing water butts, and mainstreaming greywater systems for toilet flushing.

81 Do you have any other comments on actions that can be taken through planning to address climate change?

Yes

Please explain your answer:

Most policy on climate change does not take the risks seriously enough, and endeavours to fudge a solution which allows business as usual while creating the appearance of meaningful action. The revised NPPF document is no exception. A good first step would be for planning policy to treat both the climate and biodiversity crises as materially real and demanding measurably effective action on the ground.

For many decades, the planning/development control system has specifically permitted developments which have materially harmed nature, including through contributing to climate change (which indirectly harms nature) and failing to provide for adaptation to climate change (as required to maintain. That has contributed to (among other things) loss of important habitats (eg ancient woodland), damage to important habitats (eg pollution of lakes, rivers and the sea), loss of and damage to protected areas and widespread declines in populations of plants and animals.

That is in part because of the approach to permitting development as is currently encapsulated in the current text NPPF.

That would be bad enough if legal obligations in relation to nature and climate change merely sought to protect nature and not make climate change worse.

But, in fact, as we explain below, those obligations provide obligations and a framework which require restoration of nature and positive action to mitigate and adapt to climate change.

In reviewing the NPPF (including specifically in relation to NPPF #11), the Secretary of State needs to take into account those statutory obligations with a view to ensuring that the planning system (including the NPPF) contributes to securing them rather than (as at present) to undermining them.

They include: the obligations in relation to 'habitats sites' (SAC/SPAs) not merely not to harm them but actually to restore them to; obligations arising from the Water Framework Directive not merely not to further damage our lakes, rivers and streams but to ensure action to restore them; obligations under the Environment Act 2021 to meet positive (improvement) targets within Environmental Improvement Plans; and obligations arising from the Climate Change Act 2008 not merely not to contribute to climate change but positively to act to mitigate it and to implement adaptation measures (including in securing natural habitats).

The 'Biodiversity Net Gain' regime, implementation of which is currently underway, already of course provides that new development must improve (and not merely not harm) the local biodiversity. That importantly establishes the principle of development being conditional on environmental improvement. But it is only a first step.

We would ask for modest, but important, changes to the approach which the NPPF takes the natural environment and to climate change mitigation and adaptation, building on what BNG seeks to achieve in relation to local biodiversity.

Through plan making, development control and enforcement, the planning system should contribute to mitigating and adapting to climate change.

Local plan policies and development control decisions should ensure that development will only be permitted where the development (directly or indirectly) positively contributes to mitigating climate change and to adaptation to climate change relevant to the natural environment to the extent that arises in relation to the development. Consideration of those things must include not just scope 1 emissions (i.e. direct emissions from construction/operation of the development) but also scope 2 emissions (such as those arising from generation of an electricity supply or other fuel input required by the development or implied by its transport requirements) and scope 3 emissions (such as the operational emissions arising from any activity enabled or facilitated by the development). In short, all new development must be better than carbon neutral.

Likewise, where an enforcement decision could have implications for climate change mitigation or adaptation, only outcomes which support those things will be acceptable.

Climate change means that all planning authorities will have to look further into the future and those in low lying coastal areas will have to start making difficult decision about the future viability of settlements and land use in 100 years' time when they are making decisions now.

Development has a strong permanency, once developed the assumption is that it will stay developed, however, future flood risk will mean that in some cases it would be irresponsible for planning authorities to allow development or redevelopment that is likely to have a long term footprint on sites that may be unsafe within the lifespan of the buildings. Planning authorities will need help and guidance to plan for withdrawal, and to make the bold changes that we will need to avoid setting up a disaster for the next generation.

While flooding and coastal erosion are the most imminently tangible impacts of climate change the government should also provide temperature and climate forecasts and lead a conversation about the types of buildings we will need in the future.

In terms of preventing climate change the UK has been very slow to move away from gas central heating, to properly insulate homes and to secure a low carbon housing stock. The Future Homes

standard needs to be improved to reflect the various concerns that industry experts have about it and the Government needs to enable the retrofitting of existing dwellings and buildings. Planning policy has an important role in enabling planning authorities to establish high standards and to be able to insist on low carbon developments.

Following the recent Supreme Court ruling that planning authorities must consider projects' 'downstream' environmental impacts, in that case (Finch v Surrey CC [2024]) the impacts on the environment of burning oil coming out of a well they were permitting, the NPPF must be updated to ensure that all local plans and planning decisions take into account the downstream effects on the climate and biodiversity.

82 Do you agree with removal of this text from the footnote?

Yes

Please explain your answer:

83 Are there other ways in which we can ensure that development supports and does not compromise food production?

Not Answered

Please explain your answer:

84 Do you agree that we should improve the current water infrastructure provisions in the Planning Act 2008, and do you have specific suggestions for how best to do this?

Yes

Please explain your answer:

Like other NSIPs, large-scale infrastructure projects can be very environmentally damaging. Smaller-scale nature-based solutions can often be integrated into development in ways that deliver multiple benefits for communities and ecosystems. While future water management may require both strategies, it is important to recognise the significant difference that more ecologically and environmentally sustainable solutions can make.

85 Are there other areas of the water infrastructure provisions that could be improved? If so, can you explain what those are, including your proposed changes?

Yes

Please explain your answer:

There is an important additional issue that is absent from the NPPF revision: alongside the sewage crisis that has hit the headlines, there is the water abstraction crisis. New development in areas that are already experiencing water shortage risks worsening consequences of drought, with significant ecological implications for the health of chalk streams and other wetland habitats. The problem of restricted water supply and rising water use should be addressed by government looking at agricultural practice alongside development and deciding where priorities for use should lie.

86 Do you have any other suggestions relating to the proposals in this chapter?

Not Answered

Please explain your answer:

## Chapter 10 – Changes to local plan intervention criteria

87 Do you agree that we should we replace the existing intervention policy criteria with the revised criteria set out in this consultation?

Not Answered

Please explain your answer:

88 Alternatively, would you support us withdrawing the criteria and relying on the existing legal tests to underpin future use of intervention powers?

Not Answered

Please explain your answer:

## Chapter 11 – Changes to planning application fees and cost recovery for local authorities related to Nationally Significant Infrastructure Projects

89 Do you agree with the proposal to increase householder application fees to meet cost recovery?

Not Answered

Please explain your answer:

90 If you answered No to question 89, do you support increasing the fee by a smaller amount (at a level less than full cost recovery) and if so, what should the fee increase be? For example, a 50% increase to the householder fee would increase the application fee from £258 to £387.

Not Answered

If Yes, please explain in the text box what you consider an appropriate fee increase would be. :

91 If we proceed to increase householder fees to meet cost recovery, we have estimated that to meet cost-recovery, the householder application fee should be increased to £528. Do you agree with this estimate?

Not Answered

If No, please explain in the text box below and provide evidence to demonstrate what you consider the correct fee should be.:

92 Are there any applications for which the current fee is inadequate? Please explain your reasons and provide evidence on what you consider the correct fee should be.

Not Answered

Please explain your answer:

93 Are there any application types for which fees are not currently charged but which should require a fee? Please explain your reasons and provide evidence on what you consider the correct fee should be.

Not Answered

Please explain your reasons and provide evidence on what you consider the correct fee should be:

94 Do you consider that each local planning authority should be able to set its own (non-profit making) planning application fee?

Not Answered

Please explain your answer:

95 What would be your preferred model for localisation of planning fees?

Not Answered

Please give your reasons in the text box below:

96 Do you consider that planning fees should be increased, beyond cost recovery, for planning applications services, to fund wider planning services?

Not Answered

If Yes, please explain what you consider an appropriate increase would be and whether this should apply to all applications or, for example, just applications for major development? :

97 What wider planning services, if any, other than planning applications (development management) services, do you consider could be paid for by planning fees?

Please explain your answer:

98 Do you consider that cost recovery for relevant services provided by local authorities in relation to applications for development consent orders under the Planning Act 2008, payable by applicants, should be introduced?

Not Answered

99 If Yes, please explain any particular issues that the Government may want to consider, in particular which local planning authorities should be able to recover costs and the relevant services which they should be able to recover costs for, and whether host authorities should be able to waive fees where planning performance agreements are made.

Please explain your answer:

100 What limitations, if any, should be set in regulations or through guidance in relation to local authorities' ability to recover costs?

Please explain your answer:

101 Please provide any further information on the impacts of full or partial cost recovery are likely to be for local planning authorities and applicants. We would particularly welcome evidence of the costs associated with work undertaken by local authorities in relation to applications for development consent.

Please explain your answer :

102 Do you have any other suggestions relating to the proposals in this chapter?

Yes

Please explain your answer.:

There needs to be far greater resource devoted to planning for high quality, environmentally sustainable development. If we do not devote sufficient resources to this, the outcomes are likely to be poorly planned and harmful. The lack of capacity in local authorities, both within planning and ecology teams is now well recognised and this is likely to hinder delivery of policies such as BNG. Local Nature Recovery Strategies are also poorly resourced, while further funding will be required to fully integrate this work into wider planning processes. Enforcement also needs to be properly resourced. Lack of funding for enforcement has led to multiple environmental failures, including a fundamental lack of oversight of water companies leading to only 14% of rivers being in a good ecological state. Within planning, there are insufficient resources devoted to enforcement - a drop of 43% between 2010 and 2021. Research commissioned by Wild Justice, and soon to be published, shows that 47% of ecological mitigations required through the planning system are just not in place or have failed. Local authorities have few resources to enforce ecological mitigations. This needs to be urgently addressed, particularly as BNG requires greater levels and complexities of mitigations. If this is not addressed, the 10% net gain envisaged by the BNG system is in reality a 40% loss of biodiversity.

## Chapter 12 – The future of planning policy and plan making

103 Do you agree with the proposed transitional arrangements? Are there any alternatives you think we should consider?

Not Answered

Please explain your answer:

104 Do you agree with the proposed transitional arrangements?

Not Answered

Please explain your answer:



105 Do you have any other suggestions relating to the proposals in this chapter?

Not Answered

Please explain your answer:

### Chapter 13 – Public Sector Equality Duty

106 Do you have any views on the impacts of the above proposals for you, or the group or business you represent and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

Please explain your answer:

In our lifetimes we have seen a significant degradation of nature, our rivers, our climate and so on. For example, there are far fewer birds than when we were each children. Today's children should, over time even it cannot be achieved immediately, be able to enjoy nature of a quality we enjoyed as children. The experience of Wales in having a Future Generations Commissioner might be useful to follow in England.

The current NPPF policies, and the amendments being proposed unless amended/augmented in the way we suggest, do not secure that outcome and indeed undermine it. They thus have a significant detrimental impact on young people compared to us older people.

The proposals we suggest elsewhere need to implemented as a step to try and address that discriminatory impact.

### Chapter 14 – Table of questions

### Chapter 15 – About this consultation