Planning & Infrastructure Bill: Parliamentary briefing for Report stage

Summary

Since its second reading in March, concerns about the environmental impact of the Planning and Infrastructure Bill have continued to grow.

The Wildlife Trusts and other environmental organisations have repeatedly highlighted that the current drafting of Part 3 of the Bill ('Development and nature recovery') would lead to a significant weakening in environmental protections.[1] On 1st May, the Government's own nature watchdog, the Office for Environmental Protection (OEP) published advice to MHCLG which concurred with this analysis and warned that Part 3 would *'have the effect of reducing the level of environmental protection provided for by existing environmental law'* and therefore constitutes regression.[2] The scale of threatened regression is such that the European Commission has raised concerns that the Bill could breach the Brexit Trade and Cooperation Agreement, with potential knock-on effects for the devolved nations.[3] Throughout May, repeated efforts by cross party MPs to amend Part 3 to try and reduce its harmful impact on nature were rejected by Ministers, along with positive measures for nature proposed to other parts of the Bill.

This refusal to amend the Bill to prevent demonstrated environmental regression amounts to a breach of earlier commitments from Government to deliver *'wins for nature'* as well as development. On taking office, Ministers went on the record to say that, if they could not deliver wins for nature as well as development they would not legislate.[4] It also breaks General Election promises made by Ministers before taking office, including a promise to ensure '*that our new towns and house building include nature at their heart, with access to parks and green spaces on people's doorsteps and environmental standards protected*'.[5] Over 25,000 members of the public have written to their MPs to express their concern about Part 3 and the broken promises it would embody if it passed into law.[6]

We urge Ministers to remember these promises, change course before it is too late and **withdraw Part 3 of the Bill**. Given the refusal to consider constructive amendments to reduce environmental harms, and ongoing rhetoric from those at the top of Government incorrectly claiming environmental protections block development, The Wildlife Trusts have concluded that this part of the Bill is not a good faith attempt to balance nature and development needs. It is rather a bulldozer designed to weaken environmental protections, all to solve a perceived 'nature delay' problem for developers. Evidence published this May demonstrate that this problem doesn't actually exist.[7]

As such, Part 3 should be withdrawn, as a disastrous, promise-breaking exercise in tilting at windmills.

If Ministers cannot bring themselves to do this, as a bare minimum they should accept Report stage amendments developed by MPs and Wildlife & Countryside Link to further OEP recommendations and add new nature safeguards into Part 3. This would at least avoid the worst environmental harms from the Bill, especially if all OEP recommendations are acted on.

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[1] Wildlife Trusts briefing, 09.04.25
[2] OEP advice letter, 1st May 2025
[3] Politico article, 8th May 2025
[4] Answer to written question, July 2024
[5] Wildlife Trusts and RSPB 'Broken Promises' press release, 22nd May 2025.
[6] Broken Promises campaign
[7] Planning & Development report, May 2025, finding bats and great crested newts were a factor in just 3% of planning appeal decisions in 2024. See also coverage of Government's own impact assessment on Bill, concluding *'There is very limited data on how environmental obligations affect development.'*

We also urge Ministers to reconsider their rejection of proposals to add positive proposals for nature to other parts of the Bill. Report stage amendments to protect chalk streams, to create a new Wildbelt designation for nature and to require nature friendly measures in building design would all advance nature's recovery and help the Government achieve their 2030 environmental targets, without hindering the core development objectives of the Bill.

We set out below the Report stage amendments we support. Ministers have one final opportunity before the Bill reaches the Lords to listen to the public, nature experts and MPs from all parties. They must withdraw Part 3 and fix the Bill, to prevent unnecessary, lasting harm being inflicted on wild spaces and wildlife.

Amendments 24-63, to leave out Part 3 of the Bill
Tabled by Ellie Chowns MP

This set of amendments[8] are a necessary response to what Committee stage revealed about Part 3 of the Bill, and the Government's intentions in bringing forward this legislation.

In a nutshell, Committee stage saw constructive attempts to put critical legal safeguards on the face of the bill rejected on a 'you can trust us to do the right thing' basis, and Ministerial prioritisation of perceived development needs over protections for nature.

Multiple committee members tabled amendments to address what the OEP's advice letter described as a *'principle area of concern'* about the Bill, namely that Part 3 *'would allow considerably more subjectivity and uncertainty in decision-making than under existing environmental law.'*

This refers to Part 3 replacing the Habitats Regulations requirement for a decision maker to rule out *'all reasonable scientific doubt of an adverse effect'* on a particular protected site or species[9] with a substitute test. Under the substitute 'overall improvement' test in clause 59 the Secretary of State would simply have to conclude that conservation measures in Environmental Delivery Plan (EDP) *'are likely to be sufficient to outweigh'* development harms or order to progress the EDP and allow development under it.[10] This means that a tightly defined 'will harm be inflicted or not' test based on scientific evidence would, as a result of the application of Part 3, be replaced by an unstructured, subjective consideration of whether the harm can theoretically be overridden by measures proposed.

In response to Committee members raising these concerns, the Bill Minister (Matthew Pennycook MP, Minister for Housing and Planning) asserted that the new overall improvement test ''*would not allow irreversible or irreparable impact to a protected site or species*''.[11] No evidence was provided to support this assertion, which contradicts a specific OEP concern that *'ecological features that are particularly threatened, irreplaceable and non-substitutable'* would be threatened by poor functioning of the EPD system. Nothing on the face of the Bill would prevent a future Secretary of State reaching the personal conclusion that irreversible or irreparable impact to a protected site or species would be outweighed by other factors, giving consent to an EDP and greenlighting the damage. The amount of flexibility allowed for by the overall improvement test creates a license for highly subjective decisions, distanced from scientific evidence. Personal assurances of goodwill on the part of current officeholders towards nature is not an adequate substitute for tightly defined, evidence-based tests detailed in legislation.

[8] Report stage amendment paper, 3rd June 2025
[9] Habitats Regulations guidance
[10] Planning and Infrastructure Bill (as amended at Committee), p95
[11] Transcript of Committee stage debates, p364

The same 'trust us' approach was deployed in response to Committee stage amendments which sought to further the OEP recommendation to apply the mitigation hierarchy (the long-standing requirement for developers to first seek to avoid harm to nature, and only then seek to mitigate and then compensate for that harm). The OEP advice letter warned that, unless the mitigation hierarchy was put onto the face of the Bill *'the law could allow a protected site to be harmed in such a way as to affect its integrity, even in an extreme case to be destroyed entirely'.*

In response to these concerns, the Bill Minister told the Committee *that ''we anticipate that Natural England will still prioritise avoidance and reduction of environmental harm in the first instance''* but that ''*the flexibility provided by the Bill will allow for those cases where, in Natural England's expert judgment, the strict appliance of the mitigation hierarchy would lead to sub-optimal outcomes''*.[12] In short, instead of a legal requirement to seek first to avoid harm, EDP authors will just be 'anticipated' to do this, with the ability not to do so. The pressure on Natural England to deviate from the mitigation hierarchy is likely to be considerable, especially as under clause 68 of Part 3 they have will have a legal duty to consider the *'economic viability of development'* when preparing EDPs. This opens the door to developers claiming that prioritising the avoidance of harm would render development no longer economically viable, forcing Natural England to deviate from the mitigation hierarchy.

This disparity between the directive on Natural England to consider economic viability for developers (a requirement considered important enough to be on the face of the Bill) and the 'anticipation' they will follow the mitigation hierarchy 'in some cases' (a highly caveated assurance not considered important enough to be included as Bill text) reveals a lot about the differing weight Government gives to nature and development in Part 3. The *''win-win for development and for nature''* promised at second reading by the Secretary of State[13] has become a single track of environmental regressions, all intended to reduce perceived obstacles for developers. It was notable that, when rejecting nature safeguards at Committee stage, the Bill Minister argued that this was necessary as increased environmental ambition could place *''an undue burden on developers''*.[14]

The intention of Part 3 has been revealed through Committee stage - to achieve perceived development wins at the expense of nature. Whilst all environmental amendments were rejected at Committee, the Government tabled and pushed through their own Committee stage amendment to Nationally Significant Infrastructure Project consultation rules that will significantly reduce the role of environmental and community evidence in project development.[15] Further announcements in late May from MHCLG risk undermining Biodiversity Net Gain as a flagship measure to boost nature through development.[16] Perhaps this anti-nature approach no surprise given that the Chancellor preceded the legislation with months of incorrect statement about nature being a 'blocker' to growth, and even as the Bill was being debated at committee, described it as part of a wider effort to *''rip out insane environment rules''*.[17]

MPs who initially supported the legislation, in good faith, as an attempt to balance nature and development needs should reconsider in light of what the past two months have revealed about the likely impact of Part 3, and the Government's decision to prioritise perceived development needs over their promises to maintain environmental protections.

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[12] Transcript of Committee stage debates, p413
[13] Transcript of 2nd reading, 24.03.25
[14] Transcript of Committee stage debates, p392
[15] Wildlife Trusts press release, 25.04.2025
[16] Wildlife Trusts response to BNG announcement, 28.05.25
[17] Chancellor's remarks to IMF, April 2025. See also concerns about rhetoric from nature sector, March 2025

The Wildlife Trusts worked with MPs at committee stage to support constructive efforts to make Part 3 work better for nature and saw Ministers reject these efforts and instead continue further down an anti-nature trajectory. In light of this, we now believe that the safest course for nature is for Part 3 of the Bill to be withdrawn entirely. We are grateful to Ellie Chowns MP for tabling amendments 24-63 which would deliver this deletion of Part 3. We urge MPs of all parties to back these amendments to firmly reject attempted environmental regression.

Amendments to add safeguards to Part 3

Whilst advocating the withdrawal of Part 3 as the safest course, we appreciate ongoing efforts to add new safeguards into these clauses to improve their effect on nature. If MPs feel unable to advocate for the complete withdrawal of Part 3, we encourage them to consider at least actively supporting key amendments brought forward by MPs, with support from the environmental coalition Wildlife & Countryside Link[18], which would apply recommendations from the OEP's 1st May advice letter and add new environmental safeguards to Part 3. These key amendments[19] are as follows:

- Amendments 8 and 9: Overall improvement test, tabled by Gideon Amos MP.
  These amendments would deliver on the OEP recommendation that *'the overall improvement test should be strengthened'*, by upping the bar required to pass the test to certainty that the EPD 'will' 'significantly' outweigh development harms. The Bill Minister argued at Committee that such an increase in environmental ambition could place an *''undue burden''* on developers. This is not accurate. As even the amended test would be less rigorous than the current Habitats Regulation requirements, any 'burden' would be less than it is today.
- Amendment 69: Timetable of EDP measures, tabled by Chris Hinchliff MP.
  The amendment would require Natural England, when drafting the content of an EDP, to set a timetable for the delivery of conservation measures, guided by the principle that gains for nature should come in advance of harm from development. This advances the direct OEP recommendation that *'a timescale for delivery of the conservation measures should be a mandatory requirement of an EDP'*. At Committee stage, the Bill Minister rejected the amendment in the interests of preserving *''sufficient flexibility around the delivery of conservation measures''*.[20] This argument does not stand, as the wording of the amendment would still give Natural England considerable flexibility. It would simply require them consider the timing of measures in a draft EDP and to follow the general principle of prioritising harm to nature.
- NC1: Avoiding adverse effects, tabled by Gideon Amos MP.
  This new clause places a duty on the Secretary of State and Natural England, when discharging their Part 3 duties, to take all reasonable steps avoid significant adverse effects on the environment, and as part of this duty to work to prevent the loss of irreplaceable habitats, including ancient woodland. This amendment would carry forward the OEP recommendation to factor the mitigation hierarchy more into Part 3, whilst respecting the stated desire of the Bill Minister to build in flexibility to the application of the hierarchy. The duty would focus in on the key part of the hierarchy, the avoidance of harm, especially to irreplaceable habitats, guiding the Secretary of State and Natural England to prioritise avoidance of harm where possible.
- NC26: Environmental improvement duty, tabled by Ellie Chowns MP.
  This new clause would increase rigour and certainty around environmental outcomes from EDPs, through giving the Secretary of State an additional duty to ensure that EDPs result in the significant and measurable improvements to the conservation status of each identified

[18] Wildlife and Countryside Link press release, May 2025
[19] See Report stage amendment paper, 3rd June 2025
[20] Transcript of Committee stage debates, p363

environmental feature. This is a new amendment, inspired by committee debate and the OEP recommendation to *'increase certainty that EDPs deliver their intended outcomes in practice'.* We hope that Ministers will carefully consider it.

Amendment 90, tabled by Jenny Riddell-Carpenter MP, also proposes a helpful change to Part 3. It would amend clause 66, which currently requires the Secretary of State to consider when making regulations that the overall purpose of the nature restoration levy is to ensure that costs can be funded by developers in a way that does not make development economically unviable. This 'overall purpose' focus on financial viability is wholly inappropriate for allegedly environmental provisions. It could also allow developers to damage important natural habitats with inappropriate development and then avoid commensurate payment for the damage (through the new levy), by claiming that payment would make their development no longer viable. Amendment 90 would address this risk by removing the stipulation about not making a development economically unviable from clause 66 and replacing it with an overall purpose more aligned with the intended environmental focus of Part 3.

At Committee stage, whilst refusing to give ground on environmental amendments, the Bill Minister did state *''when I say that I am reflecting and listening, I am. I will take all the comments about these clauses away. As I said in respect of the opinions that have been shared with us by the Office for Environmental Protection, we are already thinking about how we might respond to allay some of those concerns.''*[21] The above amendments provide the Government with oven-ready measures to allay some OEP concerns. If Ministers are serious about showing they are listening on the Bill, they should accept this set of amendments and add new safeguards to Part 3 at Report stage, in advance of further changes in the Lords.

Amendment 70, chalk stream protections
Tabled by Chris Hinchliff MP
(Also amendment 16 on chalk stream protections, tabled by Gideon Amos MP)

Chalk streams rise on chalk soils whose filtration qualities result in crystal-clear, mineral-rich waters teeming with aquatic life. 85% of the world's supply of these remarkable freshwaters are in England. These internationally rare hotspots for biodiversity are however struggling against a range of pressures, including over-abstraction for water to serve development in inappropriate locations.[22] Committee stage saw growing cross-party momentum behind the proposal that the Planning and Infrastructure Bill should include measures to address this development pressure. Two committee stage amendments were supported by over 20 MPs on a cross-party basis to create new planning protections for chalk streams[23], and for them to applied through the spatial development strategies created by clause 51.

The Bill Minister rejected these amendments at Committee, arguing that were 'not necessary' as *''local nature recovery strategies are a more suitable place to map out chalk streams and identify measures to protect them''.*[24] This reveals a fundamental misunderstanding of the chalk stream amendments, which centre on the need for new legal protections for chalk streams, across their entire catchments. Local nature recovery strategies map local habitats and state local biodiversity priorities to inform local authorities – they cannot create and apply new legal protections across catchments, as the amendments proposed.

[21] Ibid, p354
[22] Wildlife Trusts open letter and briefing material on chalk streams, November 2024
[23] Committee stage amendment paper, 13.05.25, amendments 1 & 30
[24] Transcript of Committee debate, p321

At Committee the Minister also mistakenly suggested that chalk streams are already protected as an irreplaceable habitat in the National Planning Policy Framework.[25] In fact, chalk streams are not explicitly mentioned in the NPPF and a promised consultation proposing a list of irreplaceable habitats, for use across the planning system, has been overdue since 2024.[26] The Minister also suggested that *''in many cases''* chalk streams would benefit from protected site status. In fact, only 11 out of the 220 British chalk streams have any legal protections.[27]

Given the very shaky grounds on which the Government dismissed the Committee stage amendments, the Commons should give close consideration to amendment 70 on chalk stream protections, tabled for Report stage debate by Chris Hinchliff MP. Amendment 16, tabled by Gideon Amos MP, would have a similar effect.[28]

We urge MPs to back these amendments to deliver much needed new protections some of our most precious, and threatened, freshwaters.

Amendment 91, community gardening and allotments
Tabled by Sarah Champion MP
(Also amendment 17, Local Wildlife Sites, tabled by Gideon Amos MP)

This amendment would require spatial development strategies to include policies to increase the amount of land used for community gardening and allotments. Such an increase would be a boon to communities.

The Wildlife Trusts published a report in May highlighting findings from 'Coronation Gardens for Food and Nature project', an initiative which saw the The Wildlife Trusts, the WI, Incredible Edible, and Garden Organic and The National Lottery Fund come together to support community gardening across the UK. The project found that community gardening provided opportunities to access and protect nature, improved physical health though exercise and boosted mental health through new connections with neighbours.[29]

Despite their proven value, community gardening and allotment spaces are increasingly under threat due to pressure on land for development. Including a requirement for new spatial development strategies to protect and provide such spaces will help safeguard these essential community assets for current and future generations.

Amendment 17 would add another useful nature consideration to spatial development strategies, a requirement to take account of and avoid harm to Local Wildlife Sites (LWS). The LWS network has been evolving since the 1980s, as a comprehensive network of sites with existing value for biodiversity. A report published in April by The Wildlife Trusts found the network to be under threat from development and other pressures.[30] Extra protections in the planning system, as amendment 17 would provide, would help to preserve these special sites for wildlife and for communities.

Amendment 92, nature safeguards for energy generation on Public Forest Estate
Tabled by Josh Newbury MP
(Also NC58, environment and climate duty: forestry land, tabled by Alex Sobel MP)

[25] National Planning Policy Framework
[26] Defra blog, 2023
[27] Wildlife Trusts chalk stream briefing material
[28] Report stage amendment paper, 3rd June 2025
[29] Coronation Gardens for Food and Nature report
[30] Wildlife Trusts LWS report, April 2025

Clause 27 would allow greater use of land managed by Forestry England, often known as the Public Forest Estate, for renewable energy. Whilst welcome in principle, it is important that this new use of the Public Forest Estate does not detract from the nature and access benefits that people cherish it for.[31]

Amendment 92 would add key safeguards for nature and people, including putting limits on the amount of the Public Forest Estate that could be used for renewable energy. The amendment would also prevent renewable energy projects from harming ancient woodland managed by Forestry England and damaging the vulnerable species that rely on this habitat. The Public Forest Estate can contribute to renewable energy generation, but this should be in a way that fully preserves its benefits for nature and people. Amendment 92 is necessary to ensure this.

NC58 is also a helpful amendment in this area, which would give Forestry England (and other forestry authorities) a duty to contribute to the achievement of nature recovery targets. This would help preserve – and indeed enhance – the nature benefits the Public Forestry Estate provides

NC9, environmental infrastructure in new development
Tabled by Gideon Amos MP
(Also NC56 on building regulations for biodiversity, tabled by Jenny Riddell-Carpenter MP)

This new clause would require the Secretary of State to pass regulations, within six months of the Planning and Infrastructure Bill becoming law, to enable the provision of nature-friendly design measures, including swift bricks and hedgehog highways, in new developments. New clause 56 tabled by Jenny Riddell-Carpenter MP, would have a similar effect

These measures are real 'wins-wins', providing homes for wildlife to contribute to species recovery and creating more nature-abundant places for people to live in any enjoy. The strong public campaign for swift bricks, and polling show strong support for new developments built with nature in mind, shows how popular this proposal is.[32]

It is also necessary, as the current voluntary-led approach to incorporating nature-friendly design into new developments is not delivering. Wild Justice & University of Sheffield research in 2024 found that 50% of promised nature measures on built-out developments had not been delivered by developers.[33] Regulations are needed to enforce delivery and ensure nature friendly design measures become the norm across all developments.

At Committee stage, the Minister said that a move away from the current voluntary system was not supported by the Government as it would lead to ''*more legal challenges seeking to block development*''.[34] This argument is weak. Regulations would provide clarity from the start of the development process as to what nature friendly design measure developers should include. These requirements could be set out and ticked off in initial development plans and then implemented to an agreed timescale. Legal certainty on nature friendly design requirements, provided by regulations, would effectively drive-up delivery across new developments, boosting species recovery and community access to nature.

[31] See polling on the Public Forest Estate, from time of sell-off proposals
[32] See coverage of swift brick campaign and polling
[33] University of Sheffield research, December 2024
[34] Transcript of Committee debate, p581

NC10, Wildbelt
Tabled by Gideon Amos MP

The new clause would require the Secretary of State to create a new 'Wildbelt' designation within six months of the passing of the Bill, which local authorities would then apply to limit development on sites where key habitats are recovering.

This new designation meets a growing nature recovery need for a mechanism to safeguard the next generation of nature sites, whilst they evolve towards protected site status. Currently there is no designation for sites which are not currently in good condition for nature but are recovering. If the trajectory of this recovery is continued, such sites can reach good condition and qualify for protected site status, contributing to the achievement of Environment Act nature targets and providing a pipeline of new sites for 30x30 (the promise to protect 30% of land and sea for nature by 2030). The designation gap for such sites risks habitats that that are being nursed into good ecological health suddenly being lost to inappropriate development, undermining progress towards nature recovery.

When dismissing a Committee stage version of the amendment, the Bill Minister suggested that local nature recovery strategies could deliver what the amendment aspired to achieve.[35] This is inaccurate. Local nature recovery strategies can identify key recovery habitats to local planning authorities, but neither the strategy or the authority has any designation to then use actually protect the recovering habitats. A new specialist designation, as would be delivered by NC10, is needed to safeguard recovering habitats vital to the achievement of nature targets.

NC20, permitted development for ponds
Tabled by Rebecca Smith MP

This new clause would require the Secretary of State to pass regulations to bring ponds less than 0.2 hectare in size into the permitted development regime. This easement of the planning process for pond creation would boost nature's recovery.

Over two-thirds of ponds in England present in the late 19th century have been lost, to the detriment of wildlife – all species need reliable sources of water in order to thrive.[36] The planning process is currently a barrier for pond restoration, imposing delays and costs for farmers and land managers looking to bring back ponds to boost nature and improve local water supplies. By putting ponds into the permitted development process, the new clause would lower these barriers and increase the number of ponds across English ecosystems. We hope that Ministers see the potential of this constructive amendment to bring more water onto the land to aid nature's recovery and sustainable farming, especially at a time when the prospect of drought is rising.

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[35] Transcript of Committee debate, p578
[36] UCL 'ghost ponds' project