

# Partnership Meeting

# Agenda

## Wye Catchment Nutrient Management Board

Date: **Wednesday 15 January 2025**

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Time: **2.00 pm**

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Place: **Conference Room 1 - Herefordshire Council, Plough  
Lane Offices, Hereford, HR4 0LE**

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Notes: For any further information please contact:  
[nutrientmanagementboard@herefordshire.gov.uk](mailto:nutrientmanagementboard@herefordshire.gov.uk)

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# Agenda for the meeting of the Wye Catchment Nutrient Management Board

## Voting membership

Chairperson	Councillor Elissa Swinglehurst	Herefordshire Council
	Merry Albright	Herefordshire Construction Industry Representative
	Jamie Audsley	Herefordshire Wildlife Trust
	Liz Bickerton	Bannau Brycheiniog National Park Authority
	Councillor Jackie Charlton (Vice-Chairperson)	Powys County Council
	Helen Dale	Country Land and Business Association
	Nick Day	The Friends of the Lower Wye
	Simon Evans	The Wye and Usk Foundation
	James Hitchcock	Radnorshire Wildlife Trust
	Christine Hugh-Jones	Council for Protection of Rural Wales
	Georgie Hyde	National Farmers Union
	Sarah James	Farm Cymru
	Councillor Catrin Maby	Monmouthshire County Council
	Councillor Andrew McDermid	Forest of Dean District Council
	Andrew McRobb	Council for Protection of Rural England
	Stuart Smith	Wye Salmon Association
	Tom Tibbits	The Friends of the Upper Wye
	Richard Tyler	Save the Wye

## Agenda

	Pages
<b>1. APOLOGIES FOR ABSENCE</b> To receive apologies for absence and to note any substitutes.	
<b>2. NOTES OF THE PREVIOUS MEETING</b> To receive the notes of the meeting held on 16 October 2024.  <b>HOW TO SUBMIT QUESTIONS</b> The deadline for the submission of questions for this meeting is 5.00 pm on Thursday 9 January 2025. Questions must be submitted to <a href="mailto:nutrientmanagementboard@herefordshire.gov.uk">nutrientmanagementboard@herefordshire.gov.uk</a> Questions sent to any other address may not be accepted. Accepted questions and, where possible, any responses received from the relevant agencies will be published in a supplement to the agenda papers.	7 - 12
<b>3. QUESTIONS FROM MEMBERS OF THE PUBLIC</b> To receive any written questions from members of the public.	
<b>4. UPDATE FROM THE RIVER WYE STATUTORY OFFICERS' GROUP</b> The update report from the Statutory Officers' Group (SOG) will be circulated within an agenda supplement.	To Follow
<b>5. UPDATE ON THE DIFFUSE WATER POLLUTION PLAN</b>	
<b>6. UPDATE ON WELSH EVIDENCE OF NUTRIENT MANAGEMENT PLAN</b>	
<b>7. PROPOSAL TO AMALGAMATE SECRETARIAT OF WYE CATCHMENT PARTNERSHIP AND NUTRIENT MANAGEMENT BOARD</b> A summary paper will be circulated within an agenda supplement.	To Follow
<b>8. PLANNING REFORM WORKING PAPER - DEVELOPMENT AND NATURE RECOVERY</b> A briefing note and working paper attached.	13 - 30
<b>9. WIDER UPDATES FROM MEMBERS OF THE BOARD</b> To receive updates on activity from members of the Wye Catchment Nutrient Management Board.	
<b>10. ANY OTHER BUSINESS AND DATE OF THE NEXT MEETING</b> Next scheduled meeting: <a href="#">Wednesday 16 April 2025, 2.00 pm.</a>	



## **The Seven Principles of Public Life**

### **(Nolan Principles)**

#### **1. Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

#### **3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **6. Honesty**

Holders of public office should be truthful.

#### **7. Leadership**

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.



# **Notes of the meeting of Wye Catchment Nutrient Management Board held in Conference Room 1 - Herefordshire Council, Plough Lane Offices, Hereford, HR4 0LE on Wednesday 16 October 2024 at 2.00 pm**

## **Chairperson:**

Councillor Elissa Swinglehurst      Herefordshire Council

## **Voting board members present in person:**

Merry Albright	Herefordshire Construction Industry Representative
Gordon Green	Wye Salmon Association
Andrew McRobb	Council for Protection of Rural England
Richard Tyler	Save the Wye

## **Voting board members in attendance remotely:**

Liz Bickerton	Bannau Brycheiniog National Park Authority
Councillor Jackie Charlton	Powys County Council
Helen Dale	Country Land and Business Association
Nick Day	The Friends of the Lower Wye
Georgie Hyde	National Farmers Union
Sarah James	Farm Cymru
Councillor Catrin Maby	Monmouthshire County Council
Councillor Andrew McDermid	Forest of Dean District Council

## **Other participants present in person:**

Daniel Humphreys	Dwr Cymru/Welsh Water
Martin Quine	Environment Agency

## **Other participants in attendance remotely:**

Nigel Brinn	Forest of Dean District Council
Elizabeth Duberley	Herefordshire Council
Emma Guy	Bannau Brycheiniog National Park Authority
Ethan Hamer	Powys County Council
Marc Liddeth	Environment Agency
Claire Minett	Natural England
Peter Morris	Powys County Council
Craig O'Connor	Monmouthshire County Council
Ann Weedy	Natural Resources Wales

## **Support officers:**

Ben Baugh	Herefordshire Council
Alfred Rees-Glinos	Herefordshire Council

[\[Link to the meeting page, including video chapters\]](#)

## **1. WELCOME AND APOLOGIES FOR ABSENCE**

Formal apologies for absence were recorded during the meeting from: Simon Evans (The Wye and Usk Foundation); Emma Johnson (Natural England); Stuart Smith (Wye Salmon Association), with Gordon Green was present as a substitute; and Martin Williams (Farm Herefordshire).

Invitees that had declined the meeting invitation included: Jamie Audsley (Herefordshire Wildlife Trust); James Hitchcock (Radnorshire Wildlife Trust); Christine Hugh-Jones (Council for Protection of Rural Wales); and Frances O'Brien (Monmouthshire County Council).

## **2. NOTES OF THE PREVIOUS MEETING**

The notes of the previous meeting held on 31 July 2024 were agreed.

Action: It was requested that participants in attendance remotely also be recorded in the board meeting notes.

The following matters arising were noted:

- The River Wye Statutory Officers Group (SOG) had considered a suggestion that an executive summary be produced for newcomers to the board; on 26 September 2024, SOG had concluded that '*...local authorities should take responsibility to brief any new Councillor and to utilise existing products produced...*'.
- Work was ongoing by Dwr Cymru/Welsh Water to '*...provide copies of the paperwork which shows different mapping risks including distances from watercourses...*'.

## **3. QUESTIONS FROM MEMBERS OF THE PUBLIC**

Attention was drawn to questions received from Helen Hamilton, Marches Planning and Environment. Interim responses were provided during the meeting by the Environment Agency and Natural England representatives. Updated responses were published following the meeting [[link to Supplement 3.2 - Questions \(updated with agency responses, as at 12 November 2024\)](#)].

Noting research by Cardiff University which highlighted the increasing levels of ammonium and nitrate in the River Wye, it was reported that Natural England and Natural Resources Wales were exploring the potential for targets for rivers in general. A board member commented on the need to identify related actions and consequential reductions in the appropriate plans.

## **4. UPDATES ON ACTIVITY**

Board members were urged to provide updates on the relevant activities of the groups and organisations that they represented.

## **5. REPORT OF THE RIVER WYE STATUTORY OFFICERS' GROUP**

Several questions were asked about the River Wye Statutory Officers' Group (SOG) meeting slide deck and meeting notes, the principal points arising included:

River Wye SOG / Meeting Headlines

1. The SOG had discussed the need to undertake an internal review the Terms of Reference and learning over the last twelve months for the next SOG (18 December 2024), with feedback and comments to be sought from board members.
2. With reference made to the sentence '*SOG discussed the need for a focus on River Lugg nutrient data and its failing targets compared to the River Wye*', it was clarified that: the River Wye was a designated Special Area of Conservation (SAC) in England and Wales, but the River Lugg was a SAC in England only; for the



Diffuse Water Pollution Plan and the next steps, consideration was being given to the measures that would be required to address the different issues for each river; and data was available and was being worked on for sub-catchments, but the focus was predominantly on SAC failures at present.

3. A board member commented on the need to consider messaging carefully, especially given the potential for public confusion about differences in targets for different parts of the river. It was clarified that: the agencies worked collectively across the catchment; the importance of narrative around technical data was recognised; it was appropriate to have higher targets for headwaters than for the lower reaches of the water course; and reference was made to the Common Standards Monitoring guidance which was applied across the UK [[link to Joint Nature Conservation Committee \(JNCC\) webpage on Common Standards Monitoring](#)].

#### Updates from Natural Resource Wales

4. It was reported that the Upper Wye Restoration Project was looking at the holistic health of the river and had not designed around phosphate issues. A board member suggested that, for the purposes of the board, headlines directly related to the Nutrient Management Plan and the DWPP could be distinguished from other initiatives and developments.
5. A board member commented that amended planning advice from Natural Resources Wales diverged from that of Herefordshire Council, informed by the position of Natural England, and the agencies should be encouraged to work together to address this.
6. It was confirmed that the review of phosphorus limits on Environmental Permits for wastewater treatment works discharges had been undertaken by Natural Resources Wales, but a response on quantification would need to be provided subsequently.

#### Updates from Herefordshire Council

7. It was reported that the initial data from the Luston wetland showed average reductions in total phosphorous levels of 68% during the first 12 months of site operation and it was currently on track to meet the 100% reduction modelled over a two year period; further detail would be published on the Herefordshire Council website in due course [[link to Herefordshire Council webpage on Luston Integrated Constructed Wetland](#)].
8. It was noted that Herefordshire Council was to host a second rivers conference (21 November 2024) on sustainable practices for arable farming and consideration could be given to another event on river recovery practices.

#### Updates from Natural England

9. It was clarified that the Wyescapes project was in a two-year development phase, and was not yet at the point to quantify the level of delivery.
10. A response on the potential for Whole Farm Plans to inform example models for typical farm types would need to be provided subsequently.
11. With attention drawn to the information provided on '*38 farm visits*' and '*Consents and Planning*', a board member commented that further detail was needed, especially in relation to outcomes with measurable nutrient reductions to inform the

plans. It was acknowledged that further narrative would be helpful, and clarifications were provided on the matters referenced in the slide.

The Chairperson commented that one of the roles of the board was to triangulate actions with the delivery of the current Phosphate Action Plan, and there was a need to quantify and identify the benefits arising from actions being undertaken. The need for regular updates from other partners charged with the delivery of actions was re-iterated.

A board member emphasised the need for combined plans for the whole catchment, and suggested that an annual report be produced on activities and outcomes set against the targets included in those plans.

## **6. THE SEAT ON THE BOARD FOR THE RIVER**

The criteria were agreed for the purposes of advertising and shortlisting candidates to fill a seat on the board for the river.

Participants were invited to suggest potential candidates to the working group.

## **7. LETTER TO THE CHAIR FROM THE DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

It was noted that the (dated 23 August 2024) identified that Defra '*...are committed to delivering the Environment Act targets, which include reducing nitrogen, phosphorus and sediment losses from agricultural lands*', '*...have committed to review the Environment Improvement Plan*' and '*...will develop a new statutory plan with delivery plans to meet each of our Environment Act targets*'.

The Chairperson read out a further communication from Defra, as follows:

- *Cleaning up our rivers, seas, and lakes, including iconic sites such as the River Wye, is a top government priority.*
- *Defra are actively progressing the next steps for the River Wye. This includes working more closely with all relevant stakeholders, including Welsh Government, local authorities, and the various dedicated local groups.*
- *The Secretary of State met with Deputy First Minister for Wales where they discussed the Wye and agreed to work collaboratively on the issues affecting the river.*
- *The Secretary of State agreed to enhance scientific research and local field trials to identify solutions that can be applied across wider geographical regions, starting with tackling pollution of culturally and economically important water bodies.*
- *Defra are reviewing regulations where agriculture may be a factor in causing pollution. These include the rapid review of the Environmental Improvement Plan announced by Government in July, and the post-implementation reviews of the nitrate pollution prevention regulations.*
- *Defra recently announced the independent review of Defra's regulatory landscape by Dan Corry [[link to the Defra announcement on the internal regulatory review](#)].*

The principal points of the discussion included:

- a) A cross-party Parliamentary group had formed, including catchment MPs and led by Lord Lipsey, to raise awareness of the issues affecting the River Wye.

Action: It was agreed that a letter should be sent to the MPs to highlight the work of the board, alongside that of the Statutory Officer Group, and to encourage constructive communication and partnership.

- b) It was reported that the Minister for Water and Flooding had met with catchment MPs, and with representatives of the Environment Agency and Natural England.
- c) It was reported that representatives of Friends of the River Wye and Save the Wye had met with catchment MPs.
- d) It was noted that an item on the Future Generations Commissioner for Wales and the Rivers Summits featured later in the agenda (see note 9 below).

The Chairperson welcomed the level of interest and engagement, but emphasised the established purpose of the board to influence, advise and challenge.

## **8. UPDATE ON THE RIVER WYE ACTION PLAN**

[Note: For the efficient transaction of business, item 8 was discussed following items 9 and 10 but the agenda order has been retained in these notes for ease of reference]

The Chairperson advised the board that, following the 2024 general election: a new 'River Champion' had not yet been appointed; and no further detail was available on the previously announced 'up to £35 million in funding' for the River Wye SAC catchment.

Action: It was agreed that a letter should be sent to HM Treasury on behalf of the board to highlight the need for discussions to resume and for funding to be made available.

## **9. LETTER TO THE WELSH GOVERNMENT FROM THE FUTURE GENERATIONS COMMISSIONER FOR WALES**

The Chairperson welcomed the letter from the Future Generations Commissioner for Wales to the Welsh Government (dated 2 September 2024), and the associated report. It was considered that the content: demonstrated a level of awareness and grip of the issues; recognised the role of nutrient management boards; identified the need for innovative approaches, and for the production of a clear action plan for tackling agricultural sources of river pollution; acknowledged the value of citizen science; and showed political impetus through the Rivers Summits, albeit with some questions remaining about what happens next.

It was reported that an event was to be held by the Future Generations Commissioner for Wales on 21 November 2024.

## **10. LETTER TO THE SECRETARY OF STATE FROM THE OFFICE FOR ENVIRONMENTAL PROTECTION**

The Chairperson drew attention to some of the key points of the letter from the Chair of the Office for Environmental Protection to the Secretary of State for the Environment, Food and Rural Affairs (dated 12 September 2024), including: '*... without nature there is no economy, no food, no health or society*'; the priority to '*Get nature friendly farming right...*' '*... However, we identify limited capacity for reducing water pollution, supporting your priority of cleaning up rivers and lakes, without both changes to the current schemes and changes to the regulatory approach...*'; the priority to '*Regulate more effectively*'; and the welcoming of the Secretary of State's '*...recent announcement of a fundamental and comprehensive review of water in the round...*'.

A board member commented that the Council for Protection of Rural England would be lobbying for the powers of the Environment Agency to hold water companies to account to be extended into the agricultural industry.

## **11. FINES LEVIED AGAINST WATER COMPANIES**

Overviews were provided on:

- i. The treatment of fines handed out by the courts through prosecutions for high impact pollution incidents.
- ii. The voluntary offers that could be made by offenders to put right the effects of their offending through projects in the relevant catchment through enforcement undertakings in England [link to [Environment Agency webpage on enforcement undertakings](#)]. It was explained that this mechanism was not mirrored in Wales, but undertakings could be accepted for damage to a fishery.
- iii. The Water Restoration Fund to fund projects in specified geographical areas utilising fines and penalties collected from water and sewerage companies.

It was commented that all pollution incidents should be avoided but, where it did occur, there was a preference for fines and penalties to be utilised for protection, restoration and enhancement in the relevant catchment.

## **12. DATE OF THE NEXT MEETING**

The next meeting was scheduled for Wednesday 15 January 2025, 2.00 pm.

The meeting ended at 3.34 pm

**Chairperson**



**Briefing Note Planning Reform Working Paper  
Development and Nature Recovery**

The working paper sets out a new approach with the dual purpose of delivering the 1.5 million houses and accompanying infrastructure development it has committed to building, with the proposal of delivering environmental benefits to air and water quality, nature recovery, climate resilience at a strategic level.

- The proposal is to shift multiple environmental assessments at project level to a broader, strategic approach, where environmental issues will be addressed holistically where achievable through joint actions at an appropriate scale. Restorative actions for water quality within a river for example could be put in place where evidence identifies they would be to be employed to best effect; at pollution source or upstream.
- A strategic approach to mitigation is already employed in the UK, initiatives include the District Level Licensing for Great Crested Newts and the Marine Recovery Fund for offshore wind development, the government is consulting on a similar approach for Nature Recovery more broadly.
- Responsibility/Decision making to address the environmental impacts will shift from individual developers to public Delivery Bodies; potentially Natural England, who will plan and implement actions as a regional scale. The Delivery Body will have the flexibility to take appropriate action including land management and land acquisition if required.
- Delivery Plans will be developed by the relevant Delivery Body which will identify appropriate actions, their costs and timeframes for implementation.
- The funding mechanism for implementing the mitigation measures will be secured via a levy imposed by Planning with a public schedule determining the contribution from developers matching the housing requirement with an appropriate uplift.
- The Nature Restoration Fund will have the ability to address all impacts on Nature, considering the multiple impacts of different development types and seeking to address these in a holistic way to deliver layered benefits.
- Biodiversity Net Gain contributions and the minimum 10% enhancement onsite, adhering to the mitigation hierarchy, will continue to be implemented as is.
- The scheme will require legislative change to the Wildlife and Countryside Act and Habitats Regulations which will be incorporated within the Planning and Infrastructure Bill. It is anticipated a number of pilot schemes will be progressed at the same time in order that the schemes can be commenced when the Bill receives royal assent planned for early 2026.
- A reporting mechanism will be in place via the Environmental Outcomes report and if mitigation is under performing ancillary measures will be introduced, if there is a continued failure to demonstrate improvements the plan will no longer be relied upon and a reversion to project level assessment may be reintroduced.
- Cross border – How this works in practice with devolved powers across the border for the Wye catchment and the Local Nature Recovery Strategy in England is yet to be established.





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*The Government is committed to getting Britain building again. This paper forms part of a series of working papers on different aspects of planning reform, designed to inform further policy development in collaboration with the wider sector.*

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## Summary

This paper invites views on proposals for a new approach to how housing and infrastructure development can meet its environmental obligations and contribute to nature recovery. The Government wants to accelerate development while going beyond simply offsetting harm to unlock the positive impact this development can have in driving nature recovery. This new approach would use funding from development to deliver environmental improvements at a scale which will have the greatest impact – moving us from an unacceptable status quo that can hold up development without improving nature, to a win-win for both. These working proposals reflect valuable feedback already received from representatives of the development industry, nature conservation organisations, nature service providers, and local government. If taken forward, the Government would use the Planning and Infrastructure Bill to make the necessary legislative changes to establish a more efficient and effective way for Habitats Regulations and other environmental obligations to be discharged, pooling individual contributions to deliver the strategic interventions necessary to drive nature recovery. A series of questions are posed at the end of the paper, to inform further discussions before determining whether these proposals are taken forward.

## Introduction

1. The Government is committed to getting Britain building again, at the same time as supporting nature recovery and delivering on the Environment Act. We know we can do better than the status quo, which too often sees housing development *and* nature restoration stall. Instead of environmental protections being seen as a barrier to growth, unnecessarily deterring planning applications and hindering the pace at which homes can be delivered, we want to unlock a win-win for the economy and for nature.
2. The Government's plan for change committed to the hugely ambitious milestone of building 1.5 million safe and decent homes in England and delivering the infrastructure the country needs by deciding 150 planning applications for major infrastructure this Parliament. This will require a rate of housebuilding not seen in over 50 years. But the sheer scale of the housing crisis demands a radical response, which is why the Government has committed to

use the Planning and Infrastructure Bill to reform the failing status quo to create a win-win for development and nature.

3. We need to rebuild nature at the same time as building the sustainable homes, clean power, and other infrastructure we need, which is why we will continue to expect development projects to meet high environmental standards and avoid causing unnecessary harm to nature or the environment. Our planning reforms will support developers to submit good quality applications which deliver for communities and the environment. However, some environmental obligations may be more efficiently discharged - with better outcomes for development and growth, as well as nature, water, air, and climate resilience - at a more strategic level, rather than project-by-project.
4. Streamlining development processes and the discharging of environmental obligations can unlock economic benefits – including to build 1.5 million new homes and clean power infrastructure – which in turn can help fund tangible and targeted action for nature's recovery. To deliver this win-win for the environment and for growth, we need to move to a system that can identify and deliver on opportunities for development to collectively fund nature projects at the right spatial scale. This means converting small, poorly targeted, and time-consuming project-specific obligations into strategic action plans for environmental protection and improvement where these will deliver the most for nature.

## **Our objectives**

5. Unlocking this win-win outcome for the economy and for nature must start with addressing pollution and environmental harm at source. This means taking more robust regulatory and policy action on a number of fronts. While it is right that we should do everything we can to manage the environmental impact of development, too often housing and infrastructure experience additional costs and delays due to poor underlying environmental conditions arising from other causes. This is evidenced, for example, by the need for nutrient neutrality advice in parts of England. The Government is determined to go further in dealing with environmental harms at source.
6. With that goal in mind, the Government's rapid review of the Environmental Improvement Plan will allow us to develop a new, statutory plan to protect and restore our natural environment at the scale and pace that is needed, drawing on the review's findings and a wide range of stakeholder input. This will focus on cleaning up our waterways, reducing waste across the economy, planting millions more trees, improving air quality, creating nature rich habitat, and halting the decline in species by 2030.
7. The review will engage with stakeholders across environment and nature, farming, resources, energy, waste and water sectors, working hand in glove with businesses, local authorities and civil society across the country to develop new ambitious plans to save nature. This review is



an important step in turning the page on nature recovery and will provide the foundations for delivering these targets.

8. We recognise that upstream improvements take time, but we are committed to restoring nature, including sites of international and domestic importance, preserving our natural heritage for future generations while providing the necessary environmental headroom to support growth.
9. In addition to taking action at source, the Government is therefore determined to make sure that where development will have an environmental impact that should be addressed, we have a system that delivers the best outcomes for nature in a way that supports rather than holds up development.
10. In adopting this more strategic approach – one which delivers more effectively for nature while enabling development to proceed where it is needed – we want to:
  - a. take a holistic view of nature recovery to secure better environmental outcomes;
  - b. go beyond offsetting environmental impacts and instead use development to deliver positive outcomes for nature recovery;
  - c. improve efficiency and reduce duplication to ensure every pound spent helps deliver our environmental goals;
  - d. make it far easier for developers to discharge a range of environmental obligations, and provide the legal certainty necessary to underpin substantial capital investment;
  - e. give delivery partners the tools they need to generate positive outcomes for nature, empowering them to make the right choices to deliver nature recovery;
  - f. establish a robust and transparent framework to monitor delivery of environmental outcomes; and
  - g. create a lasting legacy of environmental improvement that will promote better public health through increased access to high quality green spaces.
11. This is not achievable under the existing legislative framework. While the Government will not reduce the level of environmental protection provided for in existing law, we do believe it is necessary to revise environmental legislation to establish the proposed new approach. By making targeted amendments to legislation like the Habitats Regulations and the Wildlife and Countryside Act we can deliver improved environmental outcomes. This does not mean moving away from the outcomes envisaged by existing environmental law, but instead involves changing the process of how these outcomes are achieved, allowing us to go further to support nature recovery.
12. In due course, these proposals will be supported by the new framework of Environmental Outcomes Reports that will replace the current systems of environmental assessment with a more effective and outcome-focused tool for managing the effects of development on the

natural environment. Working together, these measures will allow us to unlock the win-win for the economy and for nature that we all seek.

## **Our proposals**

13. We want to meet these objectives by taking three steps for which the Planning and Infrastructure Bill will provide the necessary legislative underpinning.
  - a. Moving responsibility for identifying actions to address environmental impacts away from multiple project-specific assessments in an area to a single strategic assessment and delivery plan. This will allow action to address environmental impacts from development to be taken strategically, at an appropriate geographic scale, rather than at the level of an individual project – while recognising the importance of protecting local communities’ access to nature and green space.
  - b. Moving more responsibility for planning and implementing these strategic actions onto the state, delivered through organisations with the right expertise and with the necessary flexibility to take actions that most effectively deliver positive outcomes for nature.
  - c. In turn, allowing impacts to be dealt with strategically in exchange for a financial payment that helps fund strategic actions, so development can proceed more quickly. Project-level environmental assessments are then limited only to those harms not dealt with strategically.

### *Step one: shifting to strategic action*

14. A narrow focus on addressing individual impacts can fail to take advantage of the opportunity to support nature recovery. Developers are incentivised to secure only the actions required to address the impact of that development, and no more, with little to no regard to any wider environmental plan for the area. While this has been generally successful in addressing the impact of individual development, it has resulted in limited environmental improvement overall despite hundreds of millions of pounds being spent.
15. The current approach can also be burdensome, costly and uncertain. For example, in the case of nutrient neutrality, a high level of technical knowledge and bespoke calculations are needed, even for small developments, requiring each development to be linked to specific mitigation measures, with development being blocked where such measures are not readily available. And while actions taken may be effective in addressing the specific impact of a proposal, by not taking a strategic view, we may miss opportunities to support wider objectives for the environment, land use, and public amenity.

16. These challenges are not unique to us – countries around the world have recognised the importance of assessing impacts and taking action at a strategic level to better facilitate development and deliver concrete improvements to the condition of the environment.
17. We have already started to see the benefits of strategic approaches in the UK:
- a. for species, the introduction of District Level Licensing for Great Crested Newts has shifted the focus to creating new ponds that provide better habitat rather than surveying and translocating small numbers of individual newts – with better conservation outcomes thanks to contributions from developers;
  - b. for protected sites, the provision of Suitable Alternative Natural Greenspace (SANG) for residents of new developments to use for recreational activities instead of the protected site can have multiple social, economic and environmental benefits – with examples including the 90 SANGs in the Thames Basin Heaths that are delivering 2,000 hectares of accessible green space, enough to unlock up to 105,000 new homes; and
  - c. in the marine environment, the Marine Recovery Fund will accelerate the delivery of renewable energy by establishing a strategic approach to compensating for the impact of the network of offshore wind developments.
18. We want to build on this and provide the necessary certainty for all parties that we will take consolidated, coordinated action to drive nature recovery. We will do so by establishing a new legislative route to deliver action at a strategic level, making any necessary targeted amendments to existing environmental legislation, such as the Habitats Regulations. We are committed to the outcomes envisaged by the Habitats Regulations but wish to improve how these can be achieved in the context of development. By acting in legislation, we can provide certainty for both developers and the environment that this new route will allow the delivery body to take the actions required to secure the positive outcomes we need for nature. This approach will provide the improved framework we need for development in line with our commitment to only legislate where doing so will deliver positive environmental outcomes.

*Step two: moving responsibility for securing strategic environmental action onto the state*

19. If we are to shift to a more strategic approach to certain environmental obligations, we also need to move responsibility for determining and delivering these measures away from individual development projects to a more strategic level. We therefore want to establish a framework that allows for a suitable public delivery body to consider which actions are needed to address an environmental impact (or impacts) strategically, for a relevant range of development types, across an appropriate area and for an appropriate period of time. The delivery body will then secure these actions using funding provided by developers, meaning that there will be no need to consider this environmental impact on a case-by-case basis.

20. Given the different types of environmental harm that can affect our network of protected sites, species and wider environment, it is important that such a framework is flexible in three respects:
- a. first, it needs to be able to encompass a wide range of impacts, from direct effects on species to in-combination effects such as nutrient pollution – and be sufficiently future-proofed to respond to new issues that emerge;
  - b. second, it has to be capable of operating through the appropriate delivery body for the issue in question, for example Natural England for nutrient pollution – which again future-proofs the framework against any institutional changes; and
  - c. third, it must allow for a broad range of actions to be identified and taken forward, at the right geographic scale – using the expertise of the delivery body and reflecting the objective of delivering positive environmental outcomes.
21. Such a framework would be inherently modular. The Government would be able to identify an issue related to a specific environmental obligation and task a delivery body with addressing it strategically. That body would be able to use its judgement and the best available evidence to determine which actions were needed and where to discharge it more effectively.
22. While we want the model to be flexible and to rely on the work of expert organisations, it will of course be vital that, where we move to a strategic approach, we are confident that the understanding and the tools are available to make it work. In other words, before we ‘switch on’ this system for a specific environmental issue, there needs to be a clear statement as to how the approach will operate. This is why, at the heart of this modular framework, there would be a core common element – a Delivery Plan. These would be produced by a relevant delivery body, which would be tasked with ensuring they:
- a. assess the underlying environmental issues (i.e. the baseline condition and sources of impacts);
  - b. set out the actions necessary to deal with the environmental impacts from in-scope development at a strategic level, noting that these actions may be phased over time to accommodate specific increments of development across the plan period rather than projecting anticipated levels of planned development;
  - c. present opportunities for further environmental uplift to contribute towards putting the environment on a path to recovery; and
  - d. calculate the cost of these interventions and apportion the proportionate costs to relevant developments as they come forward.
23. Delivery Plans would be produced at the largest spatial scales appropriate to the environmental impacts and obligations they were addressing. Where multiple environmental impacts were applicable in the same area a single Delivery Plan could address these together. In each case, they would clearly demonstrate that the relevant environmental impacts of

development would be effectively addressed – with potential to deploy a wider range of measures than would likely be available or practical for a single development. The suite of measures in a Delivery Plan could include a combination of mitigation and compensation measures, as well as onsite measures such as common design standards for development within the Plan Area. In looking holistically at restoring natural habitats and species, a Delivery Plan would move beyond the perspective of individual projects and would have the flexibility to diverge from a restrictive application of the mitigation hierarchy but only where the delivery body considered this would deliver better outcomes for nature. As outlined above, targeted amendments to existing environmental legislation would be made to support this approach. For example, to clarify that where an environmental impact was addressed by a Delivery Plan, that impact would no longer need be considered in individual case-by-case assessments.

24. The delivery body will ensure a simple user experience for developers. While the scale of a Delivery Plan would depend on the impacts being considered, each will set out the actions that will be delivered to address the environmental impact of development. Where appropriate, they could also identify opportunities for wider interventions to address the underlying sources of environmental harm, possibly in the form of a Protected Site Strategy or another spatial plan (see paragraph 25 below). Delivery Plans will be underpinned by relevant analysis and accompanying methodologies / assessments of the actions to be taken, but they will be streamlined documents, designed to ensure environmental improvements and give confidence to communities, developers and decision-makers.
25. It is vital that Delivery Plans do not involve any unnecessary or duplicative work. Where all or some of the necessary evidence base is already available to a delivery body – for example, due to an extant Diffuse Water Pollution Plan (DWPP), Protected Site Strategy (PSS), Species Conservation Strategy (SCS), or Local Nature Recovery Strategy (LNRS) – this may be depended upon for these purposes. Likewise, any relevant evidence and actions identified in preparing a Delivery Plan should be made available to any other body subsequently involved in preparing a wider environmental plan or strategy covering the same area. Legislation will include a coordination duty to ensure this cooperation between relevant public bodies.
26. Delivery bodies will be provided with the tools they need to secure outcomes directly where needed, ranging from powers to acquire land (including by compulsory purchase) through to the ability to recommend appropriate planning conditions to ensure high standards are maintained. However, reflecting the Government’s commitment to growing nature markets and harnessing these to support the delivery of regulatory obligations, we expect delivery bodies to work with private providers and land managers wherever possible to ensure competition and innovation in securing impactful and good value for money interventions, including necessary land use and land management changes. The Government is working with the British Standards Institution to develop high-integrity standards for nature markets, which will help provide further confidence to everyone that they represent robustly assured outcomes.

27. These proposals are not expected to have any substantive impact on the implementation of mandatory Biodiversity Net Gain (BNG), which is a widely applicable planning obligation in England. BNG incentivises nature positive choices on development sites, with a developing private marketplace for off-site biodiversity units which the Government continues to fully support. This means that where a developer engages with the Nature Restoration Fund to address a specific environmental impact, the biodiversity gain requirement will continue to apply. This ensures developments are incentivised to reduce their biodiversity impact on site and secure future residents' and / or local people's access to nature. As we continue to develop this model, we will seek to identify opportunities to support the ongoing roll out and implementation of BNG.
28. In considering a new approach, it is vital there are appropriate safeguards in place to ensure that Delivery Plans are robust and that the actions identified are delivering the necessary environmental improvement. Before a Delivery Plan could take effect, it would be subject to scrutiny and sign-off by the Secretary of State who would need to be satisfied it was aligned with our wider environmental and growth ambitions and consistent with our domestic and international legal commitments.
29. Once in place, the delivery body would be required to secure the actions identified and publish monitoring data to demonstrate the impact of the interventions over time. If a Delivery Plan were shown to be underperforming, the delivery body would be required to secure actions to address any underperformance, with the plan ultimately being revoked and revised if remedial actions were not sufficient to provide the necessary levels of environmental protection.
30. Given the pressing need to address environmental impacts and to allow development to come forward, we would want to ensure that Delivery Plans could be put in place quickly, subject to the safeguards outlined above. While the delivery timescales may vary for different Delivery Plans, depending on the nature and complexity of the environmental obligations they were addressing, we would propose to develop the first tranche in parallel to the passage of the Planning and Infrastructure Bill to ensure that we were able to realise the benefits of this new approach as soon as possible. Subject to Bill passage, our expectation is that this would mean the first Delivery Plans – in other words, the first modules of the new approach – would be operational for developers to use shortly after Royal Assent.
31. While the primary legislative framework will be drafted to accommodate a wide range of environmental obligations, it will not be appropriate in every specific instance. There may be environmental effects for which this model is not suited to supplanting existing environmental assessment, or specific types or locations of development for which it is not appropriate. These cases should be excluded from a Delivery Plan. We consider that the assurance process outlined above will make sure that whenever a Delivery Plan is put in place, this will be because it is suitable for that type of development, in that area, and in relation to that specific environmental effect. We are clear that Delivery Plans could only be

put in place where there is sufficient confidence that they will achieve the better outcomes for nature over their lifetime. Where this is not the case, developers will continue to discharge obligations in line with existing legislation and practice. Similarly, where development has other environmental effects that are not covered by a Delivery Plan, then those remaining effects will continue to be assessed and addressed in the usual way.

### *Step three: a fund for developers*

32. Where a Delivery Plan has established a robust delivery pathway, we will create a mechanism to secure contributions from developers to fully fund the actions it identifies.
33. This would mean that when a development comes forward in an area covered by a Delivery Plan, it would be able to meet the relevant environmental obligations through a single payment which contributed to the delivery of the actions identified. We would establish a Nature Restoration Fund to underpin actions identified by Delivery Plans under this mechanism. This is not a new financial burden since developers already have to meet the cost of project-specific measures. Rather, the Fund is seeking to streamline the process for developers while maximising the environmental impact of the funding by directing it towards real world action.
34. For developers, where their proposed development was covered by a Delivery Plan, legislation would establish that they would not go through the existing environmental assessment process in relation to the environmental impact or impacts that the Plan covered. Instead, they would commit to making the relevant payment into the Nature Restoration Fund, which would be used to fund the strategic actions. Once the payment was made, subject to any relevant conditions (such as common design standards) the development would be able to proceed. It may be necessary for a development to be subject to environmental assessment for other impacts not covered by a Delivery Plan. Even in these cases, that assessment would be less onerous, as it would only need to consider a narrower range of effects, for example, a screening under the Habitats Regulations for any effects not covered by a Delivery Plan. If all the environmental impacts of a development were covered by Delivery Plans, no further assessment would be necessary.
35. The necessary contribution for different types of development would be set in a public schedule, to secure the required actions under the Delivery Plan. By shifting to a strategic approach, leveraging economies of scale and reducing the need for costly project-level assessments, the Government's intention is that outcomes for nature are significantly improved, planning consents are secured more quickly, and the aggregate cost to developers is no greater than the status quo.
36. The Government may in some instances provide upfront funding to a delivery body to commence actions identified in Delivery Plans in advance of need, with costs recovered over

time as development comes forward. This could allow this model to unlock development more quickly and provide greater assurance of nature restoration.

## Case Studies

37. To illustrate the Government's intentions, this section contains indicative case studies of how the new approach could operate for three hypothetical developments in different areas and subject to different environmental obligations. In each case we describe how:

- a. these obligations would be met under existing rules, indicating the barriers or delays this might cause to development and the inefficient allocation of expenditure for environmental outcomes;
- b. a Delivery Plan could be prepared and agreed under the new approach;
- c. the developer experience could be improved once a Delivery Plan was in place; and
- d. environmental outcomes could be improved by the measures in the Delivery Plan.

### *Scenario A – Mitigation of harm from diffuse pollution*

38. A planning application is put forward for a development of 50 dwellings in a 'nutrient neutrality' catchment.

### *Current approach*

39. Under current rules the planning application would have to be accompanied by the necessary information to inform a Habitats Regulations Assessment. This would include a nutrient budget for the development, produced by the developer which would include:

- a. quantum of wastewater generated by the development;
- b. nutrient export (surface and groundwater run-off) from the site pre-development (reflecting current land use, soil drainage categorisation, annual average rainfall); and
- c. nutrient export (surface and groundwater run-off) from the site post-development (reflecting for example the proposed land use, areas of urban/green space, type and extent of any Sustainable Drainage Systems provision).

40. The Habitats Regulation Assessment concludes that mitigation is required to avoid an adverse effect to the integrity of the Habitats site, and as a result the developer is required to put forward suitable proposals as part of the application. To do this the developer must:

- a. consider whether additional measures (over and above those included in the nutrient budget) can be delivered on-site;
- b. establish whether there are mitigation providers operating in the area, and whether they have schemes in the right location, or else identify and purchase/deliver their own mitigation;



- c. where off-site provision is needed, negotiate and enter into legal agreements with the mitigation provider or land manager to secure the required mitigation;
- d. reach suitable agreement with the Local Planning Authority to secure the mitigation in-perpetuity (at least 80 years); and
- e. ensure the mitigation is in place and fully operational before the development can be occupied (which may in practice delay commencing construction).

### *Proposed approach*

41. Under the new approach, where development in a specific area is expected to impact a protected site (as is the case for nutrient neutrality), the Secretary of State may determine that a Delivery Plan for nutrient mitigation, operating at catchment scale, would be more effective.
42. The Delivery Plan will be based on a strategic assessment of impacts and the interventions required to accommodate an agreed level of development, with those interventions linked to incremental phases of delivery (e.g. 150 houses). The Delivery Plan will also include costings for the interventions, and a draft tariff to fund their delivery. The Delivery Plan would be considered and signed off by the Secretary of State. Interventions identified in the Delivery Plan may commence in advance of development coming forward.
43. The individual developer is able to access an online map, in advance of submitting their planning application. This confirms that the catchment is covered by a Delivery Plan. They are also able to access a breakdown of the required contribution.
44. With a Delivery Plan in place, developers no longer need to consider the impact of nutrient pollution in their Habitats Regulations Assessment. Instead, competent authorities would be directed to consider whether the development would have any likely significant effects not covered by a Delivery Plan. If there were any effects not covered by a Delivery Plan, those would need to be assessed and, if appropriate, mitigated.
45. On submitting a planning application, the developer commits to making a Nature Restoration Fund payment prior to commencement of works – at which point any impacts caused by nutrient pollution from the development do not need to be considered through the Habitats Regulation Assessment. Provided no other impacts are screened in and require mitigation measures, they will have discharged the relevant environmental obligations and are free to progress their development through the planning process in the usual way.
46. Using the funds received from developers, the delivery body, working with private providers and other groups, continues to secure the interventions identified in the plan. They deliver

interventions in phases, as development comes forward, delivering the required quantum of interventions to ensure positive outcomes over the plan period.

47. Interventions are delivered strategically, with a view both to addressing the impact of development and delivering environmental improvements (with money available above and beyond what is required to address the impact of development).
48. The delivery body publishes regular monitoring data. If objectives are not being achieved, the delivery plan details ancillary actions to be taken (with future developer contributions to the Nature Restoration Fund adjusted accordingly). If there is overachievement of objectives, actions may be scaled back and the payment reduced.
49. This monitoring feeds into wider, business as usual reporting on the condition of the protected Habitats Site and once it can be shown that there will be sufficient environmental headroom to accommodate planned growth (as a result of the actions through the Delivery Plan and any wider action to address other sources of harm), the Delivery Plan may be retired. Developers could then bring forward further development without the need to make a payment since their nutrient pollution is no longer having an adverse effect on site condition. This is in line with current approach, as seen for instance in the lifting of nutrient neutrality advice for phosphorous in Poole Harbour catchment.

#### *Scenario B – Compensation for harm to a protected site*

50. A large energy development is proposed and will be considered under the process for Nationally Significant Infrastructure Projects set out in the Planning Act 2008. The project will have an impact on the designated features of both a local SAC (Atlantic salmon) and a nearby SPA (waterfowl assemblage).

#### *Current approach*

51. Under current rules, the project proposer goes through the Development Consent Order (DCO) process, including providing the information needed for the Habitats Regulations Assessment to be conducted. Partial mitigation for the impact on the SAC is identified and provided by the developer, but it is not possible to fully address the impact on the SPA (such that there is no adverse effect on the integrity of the site). The project is considered critical to meeting clean power targets, and there is considerable public interest in the project going ahead. There are no alternative solutions which would deliver the policy objective in question, and a case for imperative reasons of overriding public interest (IROPI) is made.
52. The developer then has to source appropriate compensation, which maintains the integrity of the wider protected site network. These compensatory measures can be difficult to identify and put in place and, for example, may require purchasing large areas of land which are not near to the development in question. Negotiations with landowners and

local communities over this compensation can hold up the progress of the project and add considerable costs, while the incentive is for the developer to find the cheapest way of discharging their obligations, rather than deploying compensatory measures strategically, in a way that provides the greatest benefit to the site network.

#### *Proposed approach*

53. Under the proposed approach, where Delivery Plans were in place covering the impacts of energy development on the SAC and SPA, the infrastructure project would follow a similar process as the developer in Scenario A. As with Scenario A, the promoter would be expected to meet high standards and submit a quality application. Where the promoter committed to making a payment in accordance with the tariff of the applicable Delivery Plans, the project would only be screened for any likely significant impacts that were not covered by those Delivery Plans. The promoter would not need to secure their own mitigation or compensation measures to address those impacts. If the screening exercise identified impacts not of a type covered by a Delivery Plan, then the promoter would still need to secure bespoke mitigation and compensation to address these.
54. The measures proposed in the Delivery Plan include some purchase of land to create habitat. This is delivered and managed by the delivery body, who site it to align with mitigation measures being put in place in the context of another project. The delivery body also includes a package of measures such as improved site management and the removal of pressures affecting the species in question (where these are additional to usual practice and to legal requirements). The delivery body also puts in place plans for management and monitoring of compensatory habitat, as part of the packages of measures funded by contributions to the Nature Restoration Fund. These measures secure the coherence of the network, while ensuring that compensation is deployed more effectively than if the developer had secured it themselves.

#### *Scenario C – Species Licensing*

55. A ten-hectare solar farm is proposed on scrubland which supports a protected species. A 'mitigation licence' is required to carry out various types of work that impact a protected species or their critical habitat.

#### *Current approach*

56. Under current rules, where there is reasonable likelihood of protected species being impacted by development, planning requirements commonly require developers to commission site surveys. These may only be able to take place at certain times of the year. Significant amounts of money are spent by developers on surveys, many of which identify no impact, and this can cause delays to development.

57. If a protected species is found, on-site mitigation measures must be put in place where necessary, and a licence may be required from Natural England. This may also require additional surveying effort.

#### *Proposed approach*

58. Under the proposed approach, where it is possible to meet species licensing tests at a strategic scale, the delivery body may put in place a Delivery Plan which sets out the offsite compensation measures which will be required for the species in a given area, as well as setting an appropriate tariff to be paid into the Nature Restoration Fund by developers in return for a species licence.
59. Where the delivery plan is in place, the developer is able to make a payment, in return for the relevant species licence, with no further requirements. The planning application does not need to include surveys of the species concerned, and there is no requirement to carry out mitigation work beyond any applicable standard planning conditions related to the design or construction of the development itself. The developer receives confirmation that they will get a species licence before submitting their planning application.
60. Taking a strategic approach to species licensing is more efficient and reduces the proportion of expenditure directed towards surveying – as evidenced by the success of District Level Licensing for Great Crested Newts. This increases the amount that can be spent on funding appropriate habitat, along with appropriate management and monitoring. As more strategic species licensing schemes are developed – in the absence of a central framework – there is the possibility that developers need to make multiple strategic licensing scheme payments for individual species. Including species mitigation licensing schemes, where they exist, within the scope of a Delivery Plan, provides a simpler and more comprehensive experience for developers and enables multiple scheme payments to be covered by a single payment.

#### **Conclusion and areas for further work**

61. The approach proposed in this paper reflects the Government's commitment to prioritising outcomes over process. Shifting to a strategic and more outcomes-focused approach to impact assessment and nature recovery has great potential to support the environment as well as helping us deliver the housing and infrastructure we need. This shift to focussing on outcomes aligns with the ongoing work to implement Environmental Outcomes Reports.
62. The policy proposals outlined above would create a framework with sufficient flexibility to address both known and possible future environmental impacts from development, supporting vital development to come forward while securing nature recovery. Robust Delivery Plans developed by expert bodies, funded by developers, and implemented in partnership with land managers and other nature service providers can deliver better outcomes for the economy and the environment.

63. As we work to refine this approach we will continue to engage positively and proactively with relevant stakeholders to deliver the win-win for development and the environment.
64. We would welcome views on the options set out in this paper, and in particular on the following questions:
- a. Do you consider this approach would be likely to provide tangible improvements to the developer experience while supporting nature recovery?
  - b. Which environmental obligations do you feel are most suited to this proposed model, and at what geographic scale?
  - c. How if at all could the process of developing a Delivery Plan be improved to ensure confidence that they will deliver the necessary outcomes for nature?
  - d. Are there any additional specific safeguards you would want to see to ensure environmental protections and / or a streamlined developer experience?
  - e. Do you support a continued role for third parties such as habitat banks and land managers in supplying nature services as part of Delivery Plans?
  - f. How could we use new tools like Environmental Outcomes Reports to support this model?
  - g. Are there any other matters that you think we should be aware of if these proposals were to be taken forward, in particular to ensure they provide benefits for development and the environment as early as possible?

