

## Levelling Up & Regeneration Bill: Nature recovery Briefing for Lords report stage

01.09.23 version.

### Executive summary

The September sessions of Lords report stage of the Levelling Up & Regeneration Bill provides an opportunity to support amendments which would, if accepted by the Government, help to meet agreed goals to recover nature by 2030. These critical nature recovery amendments include:

- Amendment 282M to restore nature in National Parks and AONBs.
- Amendment 198 to give people more access to high quality natural spaces.
- Amendment 182 to recover species and habitats on the ground, through effective Local Nature Recovery Strategies. The Government has tabled amendment 194A as a partial concession.

[Link](#), England's largest environment coalition, would be very grateful if peers could speak and vote in support of these amendments at report stage.

**It is also vitally important that the Government's late introduction of amendment 247YYA to amend the Habitats Regulations is defeated.** This environmentally regressive amendment, if passed, would devastate rivers, waste taxpayer money and fail to significantly boost housebuilding.

### Amendments we strongly support

#### **Amendment 282M: Protected Landscapes Management Plans and environmental targets**

Tabled by Lord Randall of Uxbridge and Baroness Jones of Whitchurch

England's National Parks and Areas of Outstanding Natural Beauty (collectively known as protected landscapes) together cover 25% of land in England. If they were restored for nature, they could make a major contribution to delivering on the Government's international commitment to protect and effectively manage 30% of land for nature by 2030 (the '30x30' promise).

That restoration has not yet taken place. In many cases nature in protected landscapes is in poorer condition than nature in sites outside them. Nearly 75% of Sites of Special Scientific Interest (SSSIs) in the English National Parks are in 'unfavourable condition', compared to 61.3% of the total SSSIs in England.<sup>1</sup> The Government has concluded that "*under their current statutory purposes, level of protection*

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<sup>1</sup> <https://www.wcl.org.uk/protected-landscapes-progress-stalled.asp>

*and management, it is our view that they [protected landscapes] cannot be said to contribute towards 30 by 30 at this time*".<sup>2</sup> This position is supported by Link's own analysis.<sup>3</sup>

The poor state of nature in protected landscapes, despite their environmental potential, is of a cause of considerable public concern. At Committee Stage debate on 18<sup>th</sup> May<sup>4</sup> and at Report Stage debate on 18<sup>th</sup> July<sup>5</sup> peers from across the house showed strong support for probing amendments which would have enabled protected landscapes to make greater contributions to 30x30 and other environmental commitments. In replying for the Government on 18<sup>th</sup> July, Lord Benyon was sympathetic, committing to measures to increase the contribution protected landscapes make to national environmental targets.

Further to these debates, Lord Randall and Baroness Jones have tabled amendment 282M to deliver on the targets commitment.<sup>6</sup> The amendment would require the Secretary of State to make regulations directing protected landscapes management plans to include actions that will increase the contribution the landscape makes to Environment Act targets. The regulations would also direct relevant public bodies (those whose decisions impact protected landscapes) to contribute to these Management Plans actions and further protected landscapes statutory purposes.

The need for relevant public bodies to make decisions to further protected landscapes management plans and statutory purposes is acute. Planning consents from local planning authorities, permits from regulators and the actions of other bodies exercising functions of a public nature frequently cause damage to National Parks and AONBSs, making these landscapes less effective for nature. One example stands for many; Southern Water have consistently discharged sewage into two river catchment areas in the New Forest National Park.<sup>7</sup> National Park Authorities currently have no power to stop such discharges.<sup>8</sup> The new regulations introduced by the amendment would provide this power, as any further discharges would put water companies in breach of a legal duty to further the environmental purposes and targets of affected National Parks.

It is important to stress that these changes need to be made through legislation. Earlier attempts to use guidance to encourage relevant public bodies to make decisions more in line with the management plans and statutory purposes of protected landscapes have failed to have the desired effect. A 2010 Defra 'National Parks circular' explicitly stated that the Government expected relevant public bodies to co-operate "*in the development of the Park Management Plan and the achievement of Management Plan*".<sup>9</sup> This non-binding guidance has failed to stop the sustained declines in nature in National Parks

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<sup>2</sup> [https://consult.defra.gov.uk/nature-recovery-green-paper/nature-recovery-green-paper/supporting\\_documents/Nature%20Recovery%20Green%20Paper%20Consultation%20%20Protected%20Sites%20and%20Species.pdf](https://consult.defra.gov.uk/nature-recovery-green-paper/nature-recovery-green-paper/supporting_documents/Nature%20Recovery%20Green%20Paper%20Consultation%20%20Protected%20Sites%20and%20Species.pdf)

<sup>3</sup> [https://www.wcl.org.uk/docs/WCL\\_2022\\_Progress\\_Report\\_on\\_30x30\\_in\\_England.pdf](https://www.wcl.org.uk/docs/WCL_2022_Progress_Report_on_30x30_in_England.pdf)

<sup>4</sup> <https://hansard.parliament.uk/lords/2023-05-18/debates/2EBF2630-E7A4-4752-9BB5-BBC0706E62F9/Levelling-UpAndRegenerationBill>

<sup>5</sup> <https://hansard.parliament.uk/lords/2023-07-18/debates/C6ED345A-2CDF-4578-8A0A-BFAC2052A8EC/Levelling-UpAndRegenerationBill>

<sup>6</sup> <https://bills.parliament.uk/publications/52420/documents/3878>

<sup>7</sup> <https://riveractionuk.com/news/river-action-calls-on-southern-water/>

<sup>8</sup> <https://inews.co.uk/news/environment/river-sewage-15-dirtiest-rivers-lakes-britain-national-parks-how-save-2228065>

<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/221086/pb13387-vision-circular2010.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/221086/pb13387-vision-circular2010.pdf)

over the past decade.<sup>10</sup>

The Government has previously accepted that legislative change is needed to both embed environmental actions in protected landscape management plans and require public bodies to further those actions. Both legislative changes were recommended by the Glover Review of Protected Landscapes<sup>11</sup> and accepted by the Government in their 2022 response.<sup>12</sup>

Protected landscape authorities, eNGOs, climate scientists, ecologists and the authors of the Glover Review and the Lawton Review are united in urging the Government to hold true to this 2022 promise and commitments made in July 2023 debates and deliver transformational protected landscapes management plans through the Levelling Up and Regeneration Bill.<sup>13</sup> There is also strong public support, polling carried out this summer shows 78% of the public want to see stronger nature protections in protected landscapes.<sup>14</sup>

If delivered swiftly, these essential reforms could enable National Parks and AONBs to become major contributors towards 30x30, in line with the vision of flourishing spaces for nature and people that led to these precious landscapes being designated. We strongly urge peers to support amendment 282M.

### **Amendment 198: Duty to reduce health inequalities and improve well-being**

Tabled by Baroness Willis of Summertown, Lord Hunt of Kings Heath, Lord Foster of Bath and the Lord Bishop of London

Where you live in England determines how long and how well you live.<sup>15</sup> Life expectancy in deprived communities in the North East is five years lower than in deprived communities in London.<sup>16</sup> The Levelling Up and Regeneration Bill offers an opportunity to leverage the planning system to tackle these health inequalities.

Amendment 198 would achieve this by giving local planning authorities a statutory objective to reduce health inequalities and improve people's wellbeing when exercising their planning powers. When fulfilling this objective, authorities would be required to have special regard to particularly effective tools

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<sup>10</sup><https://www.cnp.org.uk/sites/default/files/uploadsfiles/Raising%20the%20bar%20improving%20wildlife%20in%20our%20National%20Parks.pdf>

<sup>11</sup> <https://www.gov.uk/government/publications/designated-landscapes-national-parks-and-aonbs-2018-review>

<sup>12</sup> <https://www.gov.uk/government/publications/landscapes-review-national-parks-and-aonbs-government-response/landscapes-review-national-parks-and-aonbs-government-response#chapter-1-a-more-coherent-national-network>

<sup>13</sup> See February 2023 letter: <https://www.wcl.org.uk/docs/Scientist%20letter%20to%20PM%20-%20COP15%20-%2022.02.23.pdf>

& August 2023 letter:

<https://www.wcl.org.uk/docs/Letter%20to%20Lord%20Benyon%20-%20Protected%20Landscapes%20-%2007.08.23.pdf>

<sup>14</sup> <https://www.wcl.org.uk/nature-2030-launch-research-and-report.asp>

<sup>15</sup> <https://www.instituteofhealthequity.org/resources-reports/fair-society-healthy-lives-the-marmot-review>

<sup>16</sup> [https://www.health.org.uk/sites/default/files/202003/Health%20Equity%20in%20England\\_The%20Marmot%20Review%2010%20Years%20On\\_executive%20summary\\_web.pdf](https://www.health.org.uk/sites/default/files/202003/Health%20Equity%20in%20England_The%20Marmot%20Review%2010%20Years%20On_executive%20summary_web.pdf)

to improve health outcomes, including increasing access to high quality green and blue spaces<sup>17</sup>, providing housing which meets residents' needs, enabling everyday physical activity and providing the services and amenities people need in their neighbourhood.

At committee stage there was strong support from peers from across the benches for a similar amendment tabled by Lord Stevens of Birmingham, Lord Hunt of Kings Heath, Lord Young of Cookham and Lord Foster of Bath (numbered as amendment 241). Professor Sir Michael Marmot, author of the landmark Marmot Review on public health, also lent his support to this amendment,<sup>18</sup> highlighting the links between health and the built and natural environment and the opportunity to embed health equity into planning and design. There was also public support for this amendment, as highlighted by the 90 cross-sector organisations and 39,000 members of the public supporting the Nature for Everyone campaign.<sup>19</sup>

The Minister at committee stage supported the spirit of the amendment, but argued that existing measures, including the National Planning Policy Framework and associated design guidance, were capable of delivering on its aims.<sup>20</sup>

This position is largely unevicenced – it is clear that in fact the existing system is not sufficient to leverage the planning system to tackle health inequalities. The majority of planning officers say that existing guidance and regulation is not strong enough for them to boost active travel.<sup>21</sup> Existing Green Infrastructure Standards are only voluntary, not mandatory.<sup>22</sup> Most tellingly of all, over the decade on from the publication of the National Planning Policy Framework, health outcomes have actually declined.<sup>23</sup>

A statutory objective is needed to give planning authorities a mandate to prioritise improving health outcomes when making strategic planning decisions. The delivery of more accessible green and blue spaces through strategic planning will help people flourish, and nature with it.

### **Amendment 182: Local Nature Recovery Strategies**

Tabled by Baroness Parminter, Baroness Jones of Whitchurch and Baroness Willis of Summertown

Text also covers **Government amendment 194A**

Local Nature Recovery Strategies (LNRSs), first established in the Environment Act 2021, are documents setting out spatial strategies for habitats and species in a local area, providing a local blueprint for

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<sup>17</sup> More about the beneficial impact of access to nature on health can be found here:

<https://www.wcl.org.uk/docs/Improving%20public%20access%20to%20nature%20-%20Link%20briefing%20-%2002.05.2023.pdf>

<sup>18</sup> <https://www.sustrans.org.uk/media/11762/health-inequalities-amendment-letter.pdf>

<sup>19</sup> <https://www.wcl.org.uk/nature-for-everyone.asp>

<sup>20</sup> <https://hansard.parliament.uk/lords/2023-03-27/debates/C271DFE5-FD43-4717-82ED-10D4FF01D369/Levelling-UpAndRegenerationBill#:~:text=this%20specific%20contribution-,188,-%3A%20After%20Clause>

<sup>21</sup> <https://www.sustrans.org.uk/media/10520/walkable-neighbourhoods-report.pdf>

<sup>22</sup> <https://designatedsites.naturalengland.org.uk/GreenInfrastructure/Home.aspx>

<sup>23</sup> <https://www.health.org.uk/publications/reports/the-marmot-review-10-years-on>

nature's recovery. Their success or failure will help determine whether the Government is able to hit its legally binding 2030 nature targets. The preparation of 48 LNRSs across England began this summer.<sup>24</sup>

Without legislative action, there is a risk that much of this work will go to waste. Under the wording of the Environment Act, authorities are only required to have a regard to LNRSs when making decisions as part of a general duty to consider biodiversity.<sup>25</sup> This is a weak, non-specific, requirement. A planning authority could disregard all of the spatial recommendations of the relevant LNRS in their local development plan and still be technically compliant with the general duty.

Amendment 182 would address this weakness, by requiring local planning authority development plans to incorporate such policies and proposals as would deliver the objectives of the relevant LNRS. This would create a specific and meaningful legal link between the planning system and Local Nature Recovery Strategies, ensuring that the substantial investment in their production does not go to waste, and that they can inform better decision-making and a co-ordinated approach to delivering both housing and habitat restoration.

This change to the Bill is supported by a consequential amendment (amendment 202), also tabled by Baroness Parminter, Baroness Jones of Whitchurch and Baroness Willis of Summertown, which amends the Natural Environment and Rural Communities Act 2006 to require local planning authorities to report on how they have contributed to the delivery of the objectives of the relevant LNRS.

The Committee Stage version of the main amendment received cross-party and crossbench support when debated on 27 March.<sup>26</sup> The Government has subsequently tabled **amendment 194A**, which would require local development plans to take account of relevant LNRSs. A series of consequential Government amendments have been tabled to support this change, namely amendments 191AA, 191C, 196A, 196B, 196E and 196F/

We welcome the Government's recognition of the need for a specific legal duty to tie LNRSs directly into plan making. Amendment 194A represent a step forward, but Ministers need to move further. 'Take account' can be a weak duty, and the wording of the Government amendment ties to local development plans themselves, rather than plan makers. A weak duty incumbent on documents not decision makers could allow local plans to simply note consideration of a relevant LNRS, and not to include practical steps to achieve the actual recommendations made by the LNRS.

Amendment 182 would provide a tighter, more effective duty, requiring plan makers to actively further LNRS objectives through local plans. Plan makers would retain discretion over exactly how to do this, with the consequential amendment 202 allowing planning authorities to report why they have not furthered the objectives of the LNRS in any particular instance. The provision of this safety valve, combined with the flexibility given to local planning authorities on the detail of how to deliver objectives, means that the principal impact of this amendment would be to add a new material and proactive consideration to plan making - without binding the hands of plan makers.

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<sup>24</sup> <https://www.gov.uk/government/news/putting-nature-on-road-to-recovery-with-species-survival-fund>

<sup>25</sup> <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty>

<sup>26</sup> <https://hansard.parliament.uk/lords/2023-03-27/debates/C271DFE5-FD43-4717-82ED-10D4FF01D369/Levelling-UpAndRegenerationBill>

Without a tight duty to give LNRSs effective planning bite, there is a risk that history will repeat itself, to the detriment of nature's recovery. The Localism Act 2011 required local planning authorities to have regard to the activities of new Local Nature Partnerships (groups of organisations working together at a local level for nature's recovery) in plan making. Guidance on how to do this was also produced.<sup>27</sup> Although LNPs have done some great work, the weak 'regard' duty has contributed to their activities having limited impact on strategic planning. A weak duty was not enough in 2011 to provide nature considerations with sufficient purchase on the planning system. It could not be enough in 2023.

With nature's decline continuing, the Government should heed the lessons of the past decade. LNRSs need to serve as a foundational evidence base for local development plans, with this role secured in primary legislation, in order to make a tangible contribution to nature's recovery on the ground. The Government's amendment 194A is welcome, however amendment 182 would be more effective at carving out a proactive space for LNRSs within plan making.

## **Amendments we strongly oppose**

### **Amendment 247YYA: Amendments of the Conservation of Habitats and Species Regulations 2017: Effect of Nutrient Pollution in waste water**

Tabled by Baroness Scott of Bybrook (Government amendment)

Nutrient pollution is a significant threat to nature's recovery. Urban runoff and wastewater from new development, in addition to agricultural pollution, contributes to the leaking of nitrates and phosphorus into rivers, lakes, streams and seas. An excess of these nutrients causes "eutrophication"—algal blooms which starve a river of light and oxygen, killing wildlife. As a result of this pollution, UK rivers, streams, estuaries and coastal habitats have consistently failed tests of good ecological condition.<sup>28</sup>

Government amendment 247YYA would make a bad situation substantially worse and breach Ministerial commitments to leave the environment in a better place.

Under the Habitats Regulations, planning authorities have been required to closely consider the potential impacts of development on nutrient pollution levels in sensitive freshwater habitats. This has led to practical arrangements between local authorities and developers, guided by expert input, whereby developers in areas particularly badly affected by nutrient pollution have paid for measures to mitigate the pollution their development would create, unlocking housing delivery without further damaging nature.

Government amendment 247YYA would introduce a new schedule 13 to the Bill. The new schedule would substantially amend the Habitats Regulations by removing the requirement on planning authorities to consider all potential nutrient pollution impacts in sensitive areas. This will allow nutrient pollution from development to increase without any need to mitigate, tipping more struggling rivers over the edge into total ecological collapse.

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<sup>27</sup> See [http://berkshirelnp.org/images/Guiding\\_Principles\\_for\\_Local\\_Plans\\_2020.pdf](http://berkshirelnp.org/images/Guiding_Principles_for_Local_Plans_2020.pdf)

<sup>28</sup> <https://www.rspb.org.uk/globalassets/downloads/our-work/troubled-waters-report>

This will be to the advantage of private developers and to the detriment of the general public. In place of the mandatory duty on development companies to pay for pollution they cause in sensitive freshwater sites, a new general fund is to be created, paid for by taxpayer money. This fund is insufficient to mitigate nutrient pollution impacts, running only to 2030 and failing to cover the long-term maintenance costs essential to effective ecological mitigation. The current developer-funded system covers in-perpetuity maintenance costs, the new fund paid for by taxpayers will not. There also a risk that a future Government could simply end the fund before 2030, ending mitigation with it.

Overall, the new mitigation funding model makes a switch from 'polluter pays' to an arrangement whereby the public pay for the partial mitigation of the pollution of their own rivers, inflicted by private development companies. Development company stock prices rose considerably on the day the amendments were announced, in anticipation of increased profits from this shift from polluter to public liability.<sup>29</sup>

The stated justification for the amendments is the Government's claim that 100,000 homes have been delayed by nutrient pollution standards. This number, drawn from calculations by the Home Builders Federation as the representative body for development companies, fails to account for the fact that around 70% of these homes now have identified appropriate mitigation in place, including developer-funded mitigation schemes agreed by local authorities, paving the way to construction.<sup>30</sup> These homes are only those located close to our most valuable sites for conservation, in areas particularly badly affected by nutrient pollution.<sup>31</sup> Significant additional new homes will not be unblocked by schedule 13; it is simply that the cost of unblocking will be shifted from developers' profit margins to the public purse.

The Homebuilders Federation have also claimed that development makes a negligible contribution to nutrient pollution, compared to agriculture. This is a distorting view. The sources of nutrient pollution vary from location to location, with development sources making a significant contribution in many places.<sup>32</sup> The main contribution housing stock makes to nutrient pollution is through sewage, with nutrients from bathrooms and kitchen waste making their way through the sewage system into English rivers. The latest figures suggest that overall 60-80% of phosphorus pollution<sup>33</sup> and 25-30% of nitrate pollution<sup>34</sup> comes from sewage. New homes mean more of these outputs, and an increased contribution to nutrient pollution from the sewage system.

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<sup>29</sup> [https://twitter.com/horton\\_official/status/1696503555354509632](https://twitter.com/horton_official/status/1696503555354509632)

<sup>30</sup> <https://greenshank-environmental.com/nutrient-letter-to-the-pm#:~:text=We%20request%20the%20Government's%20support,the%20significant%20progress%20already%20made.>

<sup>31</sup> A map of affected areas can be found on p11 here:

<https://publications.naturalengland.org.uk/publication/4792131352002560>

<sup>32</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/291473/sch\\_o0605bjcs-e-e.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/291473/sch_o0605bjcs-e-e.pdf)

<sup>33</sup> [https://consult.environment-agency.gov.uk/environment-and-business/challenges-and-choices/user\\_uploads/phosphorus-pressure-rbmp-2021.pdf](https://consult.environment-agency.gov.uk/environment-and-business/challenges-and-choices/user_uploads/phosphorus-pressure-rbmp-2021.pdf)

<sup>34</sup> [https://consult.environment-agency.gov.uk/++preview++/environment-and-business/challenges-and-choices/user\\_uploads/nitrates-pressure-rbmp-2021.pdf](https://consult.environment-agency.gov.uk/++preview++/environment-and-business/challenges-and-choices/user_uploads/nitrates-pressure-rbmp-2021.pdf)

Even a small additional impact from development can cause a struggling freshwater ecosystem to collapse. Nutrient neutrality rules apply to only these sensitive areas, freshwater catchments where critical environmental thresholds have already been breached. Schedule 13 removes protections for these areas, adding new burdens to the health of freshwater habitats already at breaking point.

With a clear majority of the public demanding more, not less, action to restore our rivers the removal of crucial freshwater protections is not just unwise, but deeply unpopular.<sup>35</sup>

The Government has also proposed a secondary regulation making power (amendment 247YY) for more changes to be made with no environmental safeguards included. Again, no explanation, justification or details have been provided.

These significant changes to the Habitats Regulations from the Government has been introduced at a very late stage in the Bill's progress, limiting the ability for parliamentary scrutiny and undermining recent assurances (given during the passage of the Retained EU Law Act) that environmental standards would not be weakened by this Government.<sup>36</sup> This represents an act of serious environmental regression<sup>37</sup>, the first time in thirty years that environmental protections and standards have been lowered, not raised. The Government's intervention to weaken the Habitats Regulations, the strongest form of environmental protection applying in the UK<sup>38</sup>, sets a worrying precedent.<sup>39</sup>

The way that schedule 13 would amend the Habitats Regulations is of particular concern. The text instructs local authorities to "*assume that nutrients in waste water from proposed developments will not adversely affect habitats sites*", whatever the evidence to the contrary. Local authorities are also instructed not to carry out assessments to further consider the evidence. This is legal requirement for local authorities to stick their heads in the sand, in the face of environmental decline.

The Office for Environmental Protection has raised significant concern about the amendment, writing to the Government to advise that:

*"The proposed changes would demonstrably reduce the level of environmental protection provided for in existing environmental law. They are a regression. Yet the Government has not adequately explained how, alongside such weakening of environmental law, new policy measures will ensure it still meets its objectives for water quality and protected site condition."*<sup>40</sup>

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<sup>35</sup> See June 2023 polling commissioned by Link: <https://www.wcl.org.uk/nature-2030-launch-research-and-report.asp>

<sup>36</sup> The promises broken by schedule 13 are enumerated here by the Wildlife Trusts here: <https://www.wildlifetrusts.org/news/water-pollution-rules-expected-be-weakened-government-today>

<sup>37</sup> See blog from Ruth Chambers of Green Alliance: <https://greenallianceblog.org.uk/2023/08/30/scrapping-water-pollution-rules-shows-the-government-isnt-serious-about-our-environment/>

<sup>38</sup> <https://www.wcl.org.uk/docs/Link%20briefing%20on%20Habs%20Regs%20risks%20and%20opportunities%20Jan%202023.pdf>

<sup>39</sup> See blog from Link CEO Richard Benwell: <https://www.wcl.org.uk/nutrient-negativity-the-government-is-planning-to-weaken-legal-protection-for-rivers.asp>

<sup>40</sup> <https://www.theoep.org.uk/report/proposed-changes-laws-developments-will-weaken-environmental-protections-warns-oep>

Amendment 247YYA would break key promises, regress environmental protections and waste public money – it should be firmly rejected by the House of Lords.

## Other amendments we support

### **Amendment 190: National Development Management Policies**

Tabled by Baroness Thornhill, Lord Best and Lord Carrington of Fulham

This amendment would build democratic safeguards to the National Development Management Policies (NDMPs) introduced by the Bill. As drafted, Part 3 gives the Secretary of State sweeping powers to introduce NDMPs with limited scrutiny. This risks significant changes being made to planning without the ability for the public or parliament to contribute or respond to proposals, opening the door to undermined local plan making and environmental regression. The amendment would address this by requiring parliamentary scrutiny for the designation and review of NDPMs, along with minimum public consultation standards.<sup>41</sup>

### **Amendment 191: Duties in relation to mitigation of, and adaptation to, climate change in relation to planning**

Tabled by Lord Ravensdale, Baroness Hayman of Ullock, Lord Lansley and Lord Teverson

This amendment would ensure that national planning policies, local plan-making and development decisions are all consistent with the 'net zero' target and carbon budgets set under the Climate Change Act 2008, and with nature recovery targets set under the Environment Act 2021. With the climate and ecological emergency accelerating, such environmental considerations should be hardwired into planning system.

### **Amendment 221A: Swift bricks and boxes**

Tabled by Lord Goldsmith of Richmond Park, Lord Randall of Uxbridge and Lord Blencathra

This amendment would make planning permission for new developments conditional on the provision of a minimum number of swift bricks. Swift bricks respond to a habitat crisis, caused by the demolition of older buildings and their replacement by modern buildings which are less suitable for nesting. This loss of nesting sites is contributing to declining cavity nesting bird populations, including swifts, sparrows and starlings. Swift bricks provide replacement nesting sites for cavity birds, increasing the habitat available to them.<sup>42</sup>

Despite this, swift bricks continue to be left out of developments because there are no mandatory rules for their use. Non-mandatory recommendations for swift brick use in Design Codes guidance and a BSI

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<sup>41</sup> Further information on this amendment can be found in the following briefing:  
<https://betterplanningcoalition.com/wp-content/uploads/2023/07/BPC-RTPI-Lords-Report-Stage-Briefing-July-2023.pdf>

<sup>42</sup> <https://www.rspb.org.uk/our-work/rspb-news-original/news/stories/new-homes-for-swifts--the-manthorpe-swift-brick/>

Standard have failed to increase deployment rates.<sup>43</sup> Link supports the new clause tabled by Lord Goldsmith and Lord Randall to rectify this. The use of planning rules to drive up use of a practical measure that will help threatened bird populations is an excellent example of how development and nature recovery can align together.

### **Amendment 230A: Biodiversity Net Gain - pre-development biodiversity value and habitat enhancement**

Tabled by Baroness Scott of Bybrook (Government amendment)

This welcome amendment tightens up the rules around the implementation of Biodiversity Net Gain (BNG). It will ensure that the assessment of the pre-development biodiversity value of an onsite habitat captures the full value of the site for nature before development, meaning on-site habitat is taken at its highest biodiversity value. As a result, the post development score will adequately measure biodiversity gains and losses. This will help ensure BNG delivers a genuine uplift in biodiversity.

### **Amendment 233: Developments affecting ancient woodland**

Tabled by Baroness Young of Old Scone, Baroness Willis of Summertown and Lord Randall of Uxbridge

In 2020, during the passage of the Environment Act, the Government committed to introducing a consultation direction for developments affecting ancient woodland. This amendment sets a deadline for fulfilling this commitment. This will ensure that development impacts on ancient woodland are better understood and considered in planning, supporting the improved protection and restoration of the nation's ancient woodland.

### **Amendment 247: Nutrient pollution**

Tabled by Baroness Willis of Summertown and Baroness Parminter

Section also covers Government **amendments 247YV, 247A and 247Y**

Clause 158 takes a step to address the nutrient pollution that is devastating freshwater habitats, by establishing a statutory requirement for water companies to upgrade sewage disposal works to meet new nutrient standards in the areas worst affected by pollution.

The impact of this measure will be limited if the Government's damaging amendment 247YYA, described on pages 6 to 8 of this briefing, is voted into the Bill. The associated **amendment 247YV** would insert a new section into clause 158 entitled 'setting and enforcing nutrient pollution standards'.<sup>44</sup> This new section gives the Secretary of State the power pass regulations modifying or revoking the clause 158 duty on water companies to upgrade sewage plants discharging into struggling rivers by 2030. It amounts to the Government giving itself a mechanism to weaken or remove the measures that require water companies to tackle pollution from sewage plants.

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<sup>43</sup> <https://www.wcl.org.uk/docs/Use%20of%20swift%20bricks%20in%20new%20housing%20-%20Link%20briefing%20-%2007.07.23.pdf>

<sup>44</sup> <https://bills.parliament.uk/publications/52407/documents/3872>

Just as amendment 247YYA boosts allows developers to avoid paying for their pollution, amendment 247YV opens the door to letting water companies off the hook for the pollution they cause. In both circumstances it will be the public that foots the bill.

In order for clause 158 to help restore freshwater habitats, as originally intended, the Government should drop its proposals for amendments 247YYA and 247YV. Amendment 247, tabled by Baroness Willis and Baroness Parminter, should be adopted as a substitute.

The amendment would require water companies to, where possible, use restored habitats (referred to as Nature Based Solutions) to deliver the required upgrades, as an environmentally friendly alternative to concrete engineering. New woodlands and re-wetted marshes, delivered across a catchment as opposed to just at the works themselves, can act as nutrient sponges, reducing the pollution reaching rivers, whilst simultaneously boosting nature's recovery and storing carbon.<sup>45</sup>

Amendment 247 would also secure greater transparency, by requiring companies to secure OFWAT approval for a compliance and investment plan before any upgrades commence, and to report annually to OFWAT, the Environment Agency and local planning authority on progress against the agreed plan. Failure to demonstrate progress would lead to sanctions.

The Government has acknowledged the case for these reforms in this direction by two positive Government amendments tabled in August 2023. The amendments respectively require water companies to consider using Nature Based Solutions to deliver upgrades (**amendment 247A**) and allow for a more flexible approach to achieve the required upgrades by enabling requirements to be met at a catchment scale, rather than by upgrades at individual sewage plants (**amendment 247Y**).

The requirement to consider nature-based solutions introduced by amendment 247A is welcome, but lacks the directional clarity of amendment 247, which requires water companies to use restored habitats to deliver upgrades "*where feasible and possible*".

In the case of amendment 247Y, instead of each sewage plant needing to meet the stringent nutrient stripping standards individually, the amendment allows for the catchment as a whole to reach such a standard as would be achieved if all such plants were upgraded. Whilst this is welcome, it remains unclear whether the Government's intention is to allow use of nature based or other land-use based nutrient mitigation across catchments, or purely upgrades to existing grey assets across different sewage plants. This should be clarified.

### **Amendment 278: Duty to produce a land use framework**

Tabled by Baroness Young of Old Scone, Baroness Willis of Summertown and Lord Randall of Uxbridge

A strategic plan for land use would transform the planning system, providing clear direction as to how nature recovery and climate priorities can be balanced with other land use needs across the country and ensure national environmental targets are achieved. A national spatial framework to align policy development and decision-making for all land uses will also streamline planning decisions and provide

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<sup>45</sup> <https://www.sciencedirect.com/science/article/pii/S0925857422002336>

greater certainty for business. This amendment would deliver such a strategic plan through a land use framework, a concept that benefits from cross-party support and that now requires legislative delivery.

### **Amendment 282K: Onshore wind development**

Tabled by Baroness Hayman, Lord Teverson and Lord Deben

This amendment would remove the planning restrictions that have inhibited the delivery of onshore wind since 2015. These restrictions have had a huge impact, with only 16 new turbines granted planning permission between 2016 and 2020 across England, representing a 96% decrease on those consented between 2011 and 2015.<sup>46</sup> This curtailment of a cost-effective renewable energy is highly inappropriate the midst of a climate emergency and cost of living crisis. Providing effective wildlife and landscape considerations are put in place, onshore wind can deliver for both climate and nature – it is important to remember that unchecked climate change poses a grave threat to nature’s recovery.<sup>47</sup> Link fully supports this important cross-party amendment.

### **Other amendments we do not support**

#### **Amendments 272 and 273: Local communities in National Parks and AONBs**

Tabled by Baroness MacIntosh of Pickering and Lord Carrington

These two amendments would create a new statutory purpose for National Parks and AONBs, to promote the economic and social well-being of local communities within their boundaries.

We do not support this change. National Park Authorities, AONB Conservation Boards and the Broads Authority already have a statutory duty that relates to the economic and social well-being of local communities. Insufficient evidence has been provided to demonstrate that this needs to be changed to a fully statutory purpose.

Crucially, such a change risks undermining the long-established Sandford Principle, which states that: *“Where irreconcilable conflicts exist between conservation and public enjoyment in National Parks, then conservation interest should take priority”*. Weakening this approach through a new economic wellbeing statutory purpose risks economic interests being given new weighting over environmental interests in protected landscapes.<sup>48</sup> In the midst of a climate and ecological emergency we need protected landscapes to deliver more for the environment, not less.

#### **Better Planning Coalition**

Link is a partner to the [Better Planning Coalition](https://www.betterplanningcoalition.org/) (BPC), a group of over 30 organisations working to deliver a planning system fit for people, nature and the climate. The above amendments are supported by BPC’s nature group.

<sup>46</sup> <https://policy.friendsoftheearth.uk/reports/lack-suitable-areas-onshore-wind-local-plans>

<sup>47</sup> <https://www.rspb.org.uk/our-work/state-of-nature-report/>

<sup>48</sup> See <https://www.cnp.org.uk/blog/sandford-principle-mustnt-be-endangered-wales>

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[Wildlife and Countryside Link](#) (Link) is the largest nature coalition in England, bringing together 78 organisations to use their joint voice for the protection of the natural world.

For questions or further information please contact:

Matt Browne, Head of Policy & Advocacy, Wildlife and Countryside Link

E: [matt@wcl.org.uk](mailto:matt@wcl.org.uk)

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