Environmental Development Plans: a precautionary approach for species

15 September 2025

This paper is on behalf of nature and animal welfare coalition Wildlife and Countryside Link (Link).

Executive Summary:

The **Nature Restoration Levy (NRL)** and **Environmental Delivery Plans (EDPs)** proposed in the **Planning and Infrastructure Bill** could pose serious risks to biodiversity and wild animal welfare.

The reforms aim to streamline development and deliver environmental gains by replacing site-level safeguards with landscape-scale conservation measures. This approach can sometimes benefit nature at the same time as helping developers fulfil their environmental responsibilities.

However, there is no convincing scientific evidence that the kind of strategic approach proposed for the EDP process could work for any protected species apart from great-crested newts. At the moment, there is insufficient evidence to support an EDP approach for the majority of protected species, such as **dormice, bats, water voles, barn owls, sand lizards**, and **oak polypore fungus**.

For species with complex needs, fragmented distributions or limited data, such as many fungi, bryophytes, and invertebrates, the approach is scientifically unproven. The approach may also pose risks for widespread species like **hedgehogs** and **harvest mice**, which may be overlooked due to the loss of local ecological assessment. Longstanding protection for species like **badgers** could also be weakened, with general licences issued that bypass site-specific scrutiny or mitigation. This approach also fails to address the serious welfare harms that will likely be inflicted on substantial numbers of sentient wild animals.

To avoid these risks, following a precautionary approach, the EDP process should not be applied to species without rigorous scientific evidence. Further safeguards and guarantees are needed in regulation and in guidance to ensure that cannot happen. We recommend:

- Regulations requiring EDPs to respect the **mitigation hierarchy**, prioritising harm avoidance;
- Formally setting out a list of **irreplaceable habitats** that can never be included in EDPs;
- Requiring more robust, site-specific baseline evidence before applying EDPs;
- Legally defining **Favourable Conservation Status (FCS)**;
- Ensuring transparent, independent monitoring and adaptive management;
- Embedding **animal welfare safeguards** in planning decisions;
- Mandating consideration of **Section 41 priority species** and overlooked taxa.

Introduction

The Government's proposed Environmental Delivery Plans (EDPs), Nature Restoration Levy (NRL) and strategic mitigation approach are intended to speed up development while more than compensating for environmental harm to a protected site or species.

Strategic approaches of this kind swap the legal protection for individual sites and animals in favour of action at landscape scale to support a population or ecological system. For some species, in some circumstances, strategic approaches can offer conservation advantages. Effective strategic schemes for species such as great-crested newts rely on: (i) a robust legal framework, (ii) a clear, evidence-based assessment of impacts, (iii) confidence that the approach will deliver conservation outcomes, and (iv) proper monitoring, with binding mechanisms for remedial action where outcomes fall short.

When the Planning and Infrastructure Bill was introduced, it lacked legal certainty for conservation outcomes and scientific guarantees that offsite approaches could only be used when they can be proven effective. Government amendments have now been laid that would improve legal and scientific certainty, with references to Favourable Conservation Status (FCS), best available scientific evidence, and requirements to demonstrate that off-site approaches can be effective.

While these are helpful changes, critical details and safeguards remain to be decided. Crucially, the Bill lacks enforceable definitions of key ecological terms, does not fully embed the mitigation hierarchy, and does not include robust detail of how evidentiary safeguards will be interpreted and applied. These gaps will need to be addressed to ensure that the new framework does not weaken protection for species compared to the current framework.

Strategic approaches remain untested for most species, with limited evidence of the effectiveness of broad offsetting for species with complex needs. For many species, strategic approaches of this kind cannot work. Strategic compensation approaches raise ethical and animal welfare concerns, as the concept of strategic mitigation allows for harm to individuals of a species in exchange for hypothetical compensation elsewhere for other individuals. This fails to acknowledge the suffering experienced by those animals killed, or displaced, due to construction.

The Planning and Infrastructure Bill would make fundamental changes to the UK's most important planning protection for wildlife. This will always entail serious risks and uncertainties. With huge challenges to meet the legally-binding targets and global commitments to halt wildlife decline by 2030, as well as clear responsibility for animal welfare, the Government must use the remaining Parliamentary passage of the Bill to strengthen the safeguards and processes of its proposed system to ensure that EDPs can never be used in a way that would put irreplaceable habitats, protected species and all sentient animals at risk.

Protected species must not be put at risk

Strategic approaches should *never* be applied to protected species without rigorous scientific evidence to show that the approach would be beneficial.

Government Amendment 346E would require Natural England and the Secretary of State to take account of best available scientific evidence, including having regard to the need to achieve Favourable Conservation Status. However, further detailed regulations and guardrails are needed to ensure that these provisions prevent inappropriate application of the EDP approach to species.

Unless carefully justified by scientific evidence and field trials, the shift away from site-specific scrutiny to landscape-scale conservation measures could result in ineffective or damaging offsets, undermining biodiversity protection, wild animal welfare and public trust in planning.

The strategic model is largely untested and unsuitable for many species, particularly those with complex ecological needs, limited distribution, or specific habitat requirements. For less mobile, range-restricted or ecologically specialist species, such as many invertebrates, bryophytes, lichens and fungi, strategic mitigation is profoundly risky. These groups often have highly specific microhabitats, which cannot be replicated. The failure of replacement habitats to deliver functional ecological value is well-documented - for example, putting up a bat box, without having an ecosystem that can support bats, is delivering poor compensation at best, and detracting from meaningful change at worst. As a result, some of our rarest and most threatened species could continue to decline despite nominal "habitat recovery" if the EDP approach were to be relied upon. In these cases, strict avoidance of harm continues to be the best policy.

Even for more familiar species, the evidence that strategic approaches can work is not reliable. For example, the relevance of this model for water voles is currently being explored; however, we are concerned that the methodology and monitoring in pilot studies for Britain's fastest-declining mammal species are not robust and may generate evidence that is not transferable across the species' wider range.

Detailed rules on the application of the new provisions will be needed to ensure that gaps and shortcomings in scientific evidence do not allow EDPs to be applied where they would not be beneficial. The proposals rely heavily on broad assumptions about species presence or absence, particularly for more widespread but still vulnerable species such as hazel dormice. This creates a lack of precision in assessing actual local impacts. The creation of predefined zones to determine compensation needs risks sidelining the essential role of robust, site-specific surveys. Without detailed assessments, it is not possible to track habitat loss or population changes accurately, making it impossible to determine progress towards Favourable Conservation Status (clearly and robustly defined) for key species.

A precautionary approach

Currently, great-crested newt is the only species where a strategic approach has been proven effective. For other species, such as many bat species, scientific evidence suggests that off-site approaches cannot work. For most species, however, the evidence base is patchy and insufficient. Therefore, a precautionary approach should be taken to prevent harm.

Strategic approaches assume that species can and will colonise new habitats, but this is only viable for relatively widespread and mobile species that are not loyal to and reliant on particular sites. Many specialist or site-dependent organisms exist only in a handful of known locations. For these, the loss of a single site can mean local or national extinction. The risk of creating "conservation voids" where sensitive species are displaced without realistic chances of survival or recolonisation is alarmingly high.

Key protected species, for which the new approach would represent a particular concern, include:

- **Hazel dormice**, shy and declining, reliant on ancient hedgerows, woodland and scrub. Their populations are fragmented, and they require well-connected habitats to thrive.
- **Otters**, symbols of river health, highly territorial and difficult to relocate. They require extensive, unpolluted river systems with ample food. Habitat loss can lead to long-term population declines.
- **Barn owls**, dependent on open countryside and barns for breeding. Barn owls have suffered from habitat loss due to agricultural intensification and conversion of old buildings. Nest boxes have provided some relief, but loss of traditional nesting sites continues to pose a threat.
- **Lizard orchid**, a beautiful orchid that smells of goat. They only grow in certain areas and are hard to translocate, given complex relationships with mycorrhizal fungi and other soil organisms.
- **Red-backed shrike**, once widespread, are now virtually extinct as breeders in the UK due to habitat loss and degradation.
- **Common toad**, a widespread but declining species that can be severely affected by land use change and is considered under threat in England. Common toads have declined by 68% over the last 30 years. In some areas, such as the southeast, declines have been even more pronounced.
- **Grey seal**, found only in the North Atlantic, rely heavily on UK coastlines, which support over a third of the global population, down from 50% just 25 years ago.
- **Atlantic salmon**, iconic in UK rivers, have declined by around 70% across the North Atlantic in a few decades. In Great Britain the species is endangered, having suffered a projected 50-80% decline between 2010-2025, driven by habitat loss, barriers to migration, and water pollution.
- **Oak Polypore**, a rare bracket fungus that is a specialist of ancient and veteran oak trees. Protected in England on account of its highly-restricted distribution, with habitat loss and fragmentation listed among the primary reasons for its decline.
- **Eurasian beaver**, once extinct in Britain, is now slowly returning through reintroductions. The Government recently announced high-profile plans to allow for wider releases, but its new approach in the Bill could put beavers at risk, bringing them into scope for compensation measures that may undermine population stability and long-term recovery.

For these fauna, flora and funga - given the timescales, specific habitats and uncertainty of success - strategic compensation is unlikely to be workable. Wildlife like dormice or Bechstein's bats need specific conditions that take decades or centuries to form. Roosts, territories, and habitat structures cannot simply be moved to a spreadsheet and restored later. Whilst they can technically be recreated in some circumstances, successful use and function in the real world cannot be guaranteed.

There is a well-established link between habitat longevity and biological diversity. The longer a habitat exists the more species find it. Many habitats are slow to develop their critical features. An example is decaying wood habitat found in veteran trees. In wood pasture this takes centuries to form, but in traditional orchards it is closer to four decades. A further example is the fungal and bacterial diversity in unploughed soils. These habitats cannot be translocated or recreated in any reasonable timescale.

The ambition to restore species to Favourable Conservation Status is commendable, but it must be underpinned by reliable data and monitoring. Failing to do so could see declines masked by optimistic modelling, with conservation success judged by assumed metrics rather than observed outcomes. In extreme cases, the last populations of rare species could be lost simply because their existence was never properly recorded.

Without a clear process for applying strong scientific thresholds, the reforms risk harm to species that are less visible, less studied, but no less vital to our natural ecosystems. The complexity of ecological relationships cannot be reduced to a one-size-fits-all strategy, and policy must reflect that reality.

Case study: Badgers

The reforms include one of the most iconic and persecuted mammals in the UK, the European badger. Long-established protections under the Protection of Badgers Act (1992) could be undermined if the EDP approach is applied to badgers.

Badgers are highly territorial, site-loyal animals that depend on stable access to familiar landscapes. Setts are not merely shelters but the centre of complex social lives that span generations. Displacing badgers risks long-term ecological and welfare impacts. The new system would allow developers to pay for the right to destroy badger habitat, potentially including setts, so long as a conservation plan is devised and delivered elsewhere.

The reality is that badgers cannot simply be moved like numbers on a spreadsheet. There are already significant knowledge gaps in local badger population data, making meaningful impact assessments nearly impossible. Where badgers are forced out, the result is often increased mortality on roads, conflict with other badgers, or failed sett colonisation

For three decades, the Protection of Badgers Act 1992 has made it a criminal offence to kill, injure or take badgers or to interfere with their setts. These safeguards have been vital in limiting persecution and mitigating habitat loss. Part 3 proposes amendments that would erode these protections—for the first time allowing badgers to be legally killed or displaced for the purposes of development, public health, safety, or "overriding public interest."

The Bill permits the issuing of general or class-based licences, rather than site-specific assessments, effectively authorising badger killing or sett disturbance without robust ecological justification. This sets a concerning precedent. Licences under POBA could be automatically granted via payment into this levy, bypassing the current legal framework that requires consideration of alternatives and the minimisation of harm.

Animal welfare concerns compound the risk for badgers and other species. The Animal Sentience Committee has raised urgent ethical objections, noting that the proposed reforms ignore the direct and indirect welfare harms resulting from development. These include stress, injury, mortality, and displacement; none of which are adequately accounted for in the current policy. The failure to require due consideration of animal welfare, particularly for non-designated or non-charismatic species, risks violating both the spirit and the letter of the Animal Welfare (Sentience) Act 2022.

A red line for strategic offsetting

For some species, the EDP approach is ecologically indefensible. These include animals with highly restricted ranges and specialised habitats, which cannot be recreated at scale or speed:

- **Sand lizards**, found only in the UK's lowland heaths—one of our most threatened habitats—have suffered dramatic decline due to habitat loss. In Merseyside, Surrey, and Dorset, populations have declined by 97%, 95% and 90% respectively.
- **Violet Click Beetle** is restricted to three sites in the UK and is one of the UK's most threatened beetles. It depends on veteran Beech or Ash trees (over 200 years) with basal rot holes to breed. The loss of any of its breeding trees could be catastrophic and cannot be mitigated.
- **Smooth snakes**: Confined to lowland heaths in southern England, smooth snakes are Britain's rarest reptiles. Their secretive nature and specialized habitat requirements make them particularly vulnerable to habitat degradation.
- **Natterjack toads**. These toads depend on ephemeral pools with precise conditions for breeding. Their habitats are highly specific, and the loss of suitable breeding sites has led to significant population declines.
- The **large blue butterfly**. Declared extinct in the UK in 1979, the large blue butterfly has been reintroduced. Its survival depends on a symbiotic relationship with one ant species (*Myrmica sabuleti*), making its habitat requirements exceptionally specialized and difficult to replicate.
- **Bats**, whose roosts cannot be simply "replaced", including:
    - **Barbastelles**: Barbastelles are among the rarest mammals in Britain. They are primarily found in southern England and Wales, with few known maternity roosts.
    - **Bechstein's bat**: This elusive species is almost entirely confined to mature woodlands in southern England and parts of Wales. They are one of the UK's rarest bats partly due to loss of ancient woodlands. They are highly sensitive to habitat disturbance.

These species cannot be traded away for mitigation elsewhere. Once local populations are destroyed, they are unlikely to ever return. The rare habitats they depend on cannot easily be recreated. Development needs to respect threatened species in their habitats as the starting point.

Collateral damage and priority species

The following species are listed under Section 41 of the Natural Environment and Rural Communities Act 2006 as priority species, but the law merely requires decision-makers to "have regard" to them. They are not afforded strict protection. With the shift away from site-by-site assessment, these species are at risk of being overlooked and becoming collateral damage.

- **Horrid Ground-weaver Spider** is found nowhere else in the world but three quarries in Plymouth. The loss of even one site could spell extinction. It is a S.41, species, but has no other protection.
- **Hedgehogs**, a cherished emblem of British gardens, have seen populations fall by between 30-75% in rural areas since 2000.
- **Harvest mice**, miniature and fragile, are vital to grassland ecosystems and in significant decline due to habitat fragmentation, shrinking in occupancy by an average of 2.8% each year.
- **Brown hares**, icons of the countryside, have declined by 80% since the late 19th century, largely due to intensive agriculture and loss of rough grassland.
- **Pasqueflower** has a highly restricted range and only grows in 17 chalk and limestone grassland sites in England. It is incredibly difficult to re-establish once its habitat has been disturbed.
- **Stag beetle**, Britain's largest terrestrial beetle, have declined in many countries, primarily due to loss of decaying wood habitats. They are now largely confined to southern England.
- **Short-eared owls**, elegant upland hunters, are in decline perhaps by as much as 50%. With a 48% contraction in breeding range between the 1968–72 and 2008–11.
- **Scabious mining bees**, specialist pollinators, are increasingly scarce and dependent on flower-rich grasslands, which have declined by 97% since the 1930s.
- **Shrill carder bees**, among the UK's rarest bumblebees, now survive in a few places in southern England and Wales. Short foraging ranges and use of brownfield sites make them vulnerable.
- **Harbour seals**, 30% of European harbour seals are in the UK, declining from c.40% in 2002. They are vulnerable to disturbance and habitat degradation.

This risk is potentially even greater for threatened species not on the Section 41 list. Many threatened species, such as the Six-banded Nomad Bee (*Nomada sexfasciata*), are not officially designated as priority species, despite facing imminent extinction. Once found across southern England, this bee now survives at just one known site along a short stretch of South Devon coastline. If this habitat is lost to development, the species will vanish from the UK altogether.

The S.41 list, while currently the most useful reference, is outdated and incomplete. If the Government is serious about halting declines and preventing extinction, it must ensure that all threatened species, not just those officially designated, are identified, considered and protected in planning decisions.

Conclusion and recommendations:

Nature is not an accounting exercise. Species like hedgehogs, dormice, barn owls, salmon, otters, rare bumblebees and beavers are not simply numbers in spreadsheets. They live in real places, depend on specific habitats, and inspire public affection.

Strategic approaches to biodiversity compensation are not inherently flawed. In fact, they can work for certain species, provided they are underpinned by key safeguards. However, the EDP framework would risk irreversible loss of biodiversity and cause widespread animal welfare harm if it is applied inappropriately. Some species and habitats simply cannot be offset, and any credible system must recognise and respect that. The following regulations and guidelines should be agreed to ensure that EDPs do not harm species or cause them to suffer:

(1) **Establish a high evidentiary threshold for the use of EDPs.** Guidelines should be agreed collaboratively with scientists and stakeholders to ensure a strict application of scientific certainty and a precautionary approach before EDPs can be applied to species.

(2) **The Government should publish mitigation hierarchy regulations for EDP development.** These should specify the steps that must be taken to avoid, minimise, and mitigate harm before compensation, making harm avoidance a clear legal priority;

(3) **EDP development should require robust, site-specific ecological baseline assessments for all included species**. Without high-quality, site-specific surveys and investment in ecological knowledge, it will be impossible to gauge the real-world effects of development.

(4) **Explicitly define Favourable Conservation Status**. Aspirations for species conservation improvements must not depart from existing legal precedents, but be interpreted in line with the existing Habitat Regulations interpretation.

(5) **Mandate independent, transparent monitoring tied to adaptive management**. Strengthened rules to ensure that any shortfall in EDP delivery is met must be supported by rigorous, transparent and independent monitoring.

(6) **Apply ethical protections for animal sentience and welfare**. Applying EDPs to sentient animals is different from strategic approaches to habitat. Avoidance of harm, not compensation, must be the priority, with clear ethical and animal welfare safeguards built into policy design, including (i) the need to pay due regard to ways the EDP framework could adversely affect the welfare of sentient animals, according to the Animal Sentience Act 2022, (ii) consideration of the impacts of the EDP framework on the welfare of all sentient animals - directly and indirectly affected - regardless of their conservation status, and (iii) provision of guidance on how to reduce short- and long-term welfare risks to sentient animals.

(7) **Ensure that priority and non-protected species are not sidelined in strategic mitigation**. Regulations should require standard mitigation options for species that are likely to be present

when site-specific surveys are not undertaken, with specific and enforceable mitigation strategies for Section 41 priority species that may be affected.

The Government is legally obliged to halt the decline in species abundance by 2030. Ensuring that wildlife is not harmed by the EDP approach also matters for the legitimacy of the planning system and public faith in a "win-win" for nature and sustainable development. A system that genuinely delivers for nature must be built on evidence, accountability, and ecological integrity. We hope the Government will follow these recommendations to ensure that any new system works for wildlife.

Appendix: What's working now: The power of local, site-specific approaches:

Real conservation success comes from working with, not around, nature. There are many examples of projects celebrated by CIEEM and others where thoughtful planning, grounded in the mitigation hierarchy and local ecological assessment, has led to environmental gain alongside development:

- **Lower Otter Restoration Project *(CIEEM 2024 Winner – Best Practice Large-scale Mitigation)***
  Led by the Environment Agency and Clinton Devon Estates, this project restored the lower River Otter estuary to its natural state. It incorporated comprehensive flood management, reconnected habitats, and created large intertidal zones - all designed with robust ecological assessment, securing significant benefits for fish, birds, and invertebrates. This approach shows how purposeful design can balance mitigation with ecosystem-wide enhancement.
- **Coed Elai Business Park *(CIEEM 2024 Winner – Best Practice Small-scale Practical Conservation)***
  This initiative by Welsh Government and Arcadis Consulting Ltd embedded habitat creation within a commercial development. It included native woodland, hedgerows, and wildlife corridors, in full compliance with current habitat regulations. It went beyond basic mitigation, delivering improvements in local species connectivity and compliance with the mitigation hierarchy.
- **Totterdown Farm Barn, Gloucestershire (ROOST Partnership case study)**
  This project involved the restoration and enhancement of a dilapidated barn to support brown long-eared bats, a species known to be highly sensitive to disturbance. The barn was re-roofed using traditional materials and fitted with bespoke bat features including dedicated roosting spaces and access points. Post-works monitoring confirmed successful reoccupation by the species, highlighting how traditional building techniques, species-led design, and early ecological input can secure long-term outcomes for roost conservation within working farm settings.
- **Whitewool Stream Wetland Project *(CIEEM 20223 Winner – Largescale Mitigation)***
  This initiative tackled nutrient pollution by restoring the Whitewool Stream headwaters. Transforming intensive arable land into approximately 6 ha of wet woodland, grassland, and multi-channel wetland. It went far beyond basic mitigation - achieving clear biodiversity net gain, connectivity improvements, and early signs of species recovery (e.g., lapwing breeding).
- **Wild Woodbury Nitrate Mitigation Project (Dorset Wildlife Trust)**
  This landscape-scale restoration initiative converted 420 acres of former arable and intensive pasture land into a rewilded site to offset nutrient pollution from new housing. The project was

enabled by funds local authorities received from the delivery of over 2,000 homes. In 3 years, natural regeneration and rewetting have significantly improved water quality, with over 1,900 species recorded. This project exemplifies how nature-based solutions can support both ecological recovery, housing delivery and thanks to a new Strategic Alternative Natural Greenspace provision onsite, also communities access to the countryside.

- **ANHIB Maternity Colony Bat Fence Mitigation (ROOST Partnership case study)**

  At a development site in Wales, construction threatened to disrupt a key flight path used by soprano pipistrelle bats commuting between roost and foraging grounds. In response, a novel mitigation approach was trialled—an acoustic and visual barrier in the form of a bat fence. The structure was designed to reduce light spill and maintain navigational continuity for bats. Monitoring revealed successful continued use of the corridor post-intervention, indicating the fence's effectiveness in preserving critical behavioural patterns. This case illustrates the value of innovation and evidence-led solutions in mitigating impacts on legally protected species.

- **Needingworth Quarry, Ouse Fen (Cambridgeshire)**
  Ouse Fen north of Cambridge is being transformed from sand and gravel workings into expansive reedbeds. This habitat creation has been guided by early ecological surveys and strategic planning to support bitterns. Over the past two decades, the reedbeds have provided breeding habitat for bittern, marsh harriers, and bearded tits, otters, water voles, and 22 dragonfly species. The site will eventually include nearly 980 football pitches worth of reedbeds. RSPB staff manage water levels. This is an exemplary case of on-site habitat creation, backed by early ecological assessment, species-specific planning, and long-term monitoring, resulting in real species-level impact.

These examples show that where the mitigation hierarchy is followed, both nature and development can benefit. The existing system could be improved by:

(1) **Reducing reliance on species translocations as a mitigation tool.** While translocation can sometimes deliver short-term success, it is often treated as a silver bullet. Such measures frequently fail to deliver real ecological outcomes and can impact the welfare of individual wild animals. Success rates can be highly variable, and species may struggle to survive in unfamiliar or suboptimal habitats if wider ecological conditions have not been secured.

(2) **Tightening rules for the screening stage of environmental assessments.** Weak or inconsistent screening thresholds mean that some developments bypass the requirement for ecological evaluation. A reformed system should ensure that screening decisions are based on clear, evidence-led criteria, with input from ecologists and statutory nature bodies. Strengthening the precautionary principle in the early stages would prevent avoidable harm and ensure only projects with minimal environmental risk are fast-tracked, protecting both ecological integrity and public trust in the planning system.

(3) **Ensuring robust, transparent monitoring to ensure that environmental gains are achieved.** Current frameworks focus on outputs, like number of trees planted or ponds created, rather than meaningful ecological outcomes. Environmental assessments should embed outcomes-

focused metrics, improve data transparency and ensure that mitigation. Strengthening enforcement mechanisms and aligning incentives with long-term biodiversity recovery, rather than short-term box-ticking, will be key to truly delivering nature-positive development.

Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 90 organisations to use their joint voice for the protection of the natural world and animals.

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