Link briefing: Lords Report Stage

17 Oct 2025

Numerous important details and gaps remain to be resolved to ensure that the major changes proposed to nature protection under the Planning & Infrastructure Bill do not pose a threat to wildlife. We recognise the progress made by Government during Commons Stages, but further detailed rules are needed to ensure that Environmental Delivery Plans are environmentally robust.

Ministers have recognised the importance of the mitigation hierarchy, the precautionary principle, robust scientific evidence, and the protection of irreplaceable habitats. These assurances are welcome, but detailed rules and regulations will be required to prevent undue risk and to ensure that promised gains for nature are delivered.

At the moment, there is insufficient detail and assurance in four main areas:

1. **Scientific evidence**: Government must set out how rigorous, independent and ground-tested scientific evidence will be considered before Environmental Delivery Plans are agreed. In particular, the proposal for modelling of environmental impacts is highly uncertain. Clear rules will be needed for how environmental impacts will be assessed, including through ecological survey work.
2. **Timing of conservation measures**: The Government's amendments ensure that EDPs will include a schedule of conservation measures and Ministers have stated that in some circumstances environmental improvements will be needed in advance of harm. Detailed rules will be needed to specify when conservation action must be taken before harm, particularly when there is risk of irreversible damage.
3. **Avoiding harm**: The new approach must not jettison the principle that harm should be avoided wherever possible. Ministers argue that the current mitigation hierarchy is unduly process-driven and inflexible, but the Bill currently offers no alternative. The Government should set out a process for avoiding and reducing harm will be prioritised in the EDP process.
4. **Safeguarding irreplaceable habitats:** The Government has stated that irreplaceable habitats cannot be included in EDPs. This is positive, but without a list of irreplaceable habitats, there remain grey areas where developers may attempt to argue the case for inappropriate EDPs. The Government should improve certainty for the environment and developers alike by publishing a clear list of irreplaceable habitats that cannot be included in EDPs.

Parliamentarians have warned that without clear duties and safeguards, Environmental Delivery Plans (EDPs) and the Nature Restoration Fund (NRF) could weaken existing protections. The Office for Environmental Protection has also cautioned that the Bill remains regressive in parts, with unresolved risks around the mitigation hierarchy and treatment of irreplaceable habitats. These concerns must be addressed to deliver gains for nature alongside development.

The new approach should not be applied to any protected wildlife or habitats without rigorous, evidence-based scrutiny. To achieve the Government's stated ambition of a "win–win" for nature and development, the Government should give statutory weight (through the Bill or regulations) to the commitments made in debate, close key loopholes, deliver genuine enhancements for nature, and

align with the UK's wider statutory framework for climate and nature recovery. We therefore support the principle of the following amendments:

- **Amendment 148:** Regulations to ensure the mitigation hierarchy is applied transparently and consistently in EDPs, with robust baseline data, precautionary approaches, upfront compensation, and clear protection for irreplaceable habitats.
- **Amendment 130:** Limit EDPs to diffuse issues suited to strategic, landscape-scale approaches (e.g. nutrient neutrality, water quality, air quality).
- **Amendments 140 & 245:** Embed "Wilder by Design" principles in Building Regulations, requiring low-cost, nature-positive features such as swift bricks, hedgehog highways, and biodiverse roofs.
- **Amendment 114:** Establish a clear climate and nature duty for planning authorities and the Secretary of State, aligning with the Climate Change Act 2008 and Environment Act 2021.
- **Amendment 44:** Duties on the Forestry Commission to contribute to climate and biodiversity targets and protect irreplaceable habitats.

Together, these amendments would turn the Bill from a framework of promises into a framework of delivery, ensuring it actively contributes to nature recovery, climate resilience, and public trust in the planning system

Amendment 148: Regulations to address key concerns

Tabled by Baroness Parminter, Lord Gascoigne, Baroness Young, Baroness Willis

Amendment 148 seeks to place clear, regulatory parameters around how Environmental Delivery Plans (EDPs) are prepared and implemented, ensuring that environmental protection remains robust and transparent within this new framework, and action key areas of government reassurances.

The amendment requires Government to bring forward draft regulations within six months of Royal Assent on the key ecological safeguards. Ministers have already acknowledged the importance of the areas outlined, namely: the mitigation hierarchy, use of the precautionary principle, robust baseline assessment, protection of irreplaceable habitats, and clear sequencing of conservation action, and this amendment is about ensuring these reassurances are meaningful.

The Government has made multiple acknowledgements and commitment through including through statements, press releases, and correspondence with peers regarding how they will maintain key safeguards within the EDP model. However, without formal footing, these assurances remain intentions only, not statutory guarantees. Amendment 148 would ensure these commitments are upheld in law, providing the certainty necessary for regulators, developers, and nature alike.

1. **Embedding the mitigation hierarchy**

The mitigation hierarchy is cornerstone of effective environmental planning. It is embedded in the National Planning Policy Framework, international best practice, and leading business standards, providing both regulatory certainty and ecological integrity. It is a foundational environmental safeguard, but it remains absent from the EDP process.

Government has repeatedly acknowledged its continued importance. The July 17 press release confirmed that "*these changes underline the continued role for the mitigation hierarchy in the design of EDPs, ensuring that local conservation measures are preferred unless there is a clearly articulated environmental basis to look further afield*".

Baroness Taylor told Lords Committee that "*the mitigation hierarchy is expressed through this model, with Government amendments underlining the continued role for the mitigation hierarchy in the design of EDPs*". The letter to Peers of 13 October gave further details, but the commitments remain advisory rather than statutory. That letter confirmed that "avoid" would remain a core part of the model, with Natural England able to require developers to take action to prevent harm on-site before offsetting. It also stated that most conservation measures will address impacts at the same site, and that off-site compensation will only be allowed "in limited circumstances where Natural England are of the view that these network measures will deliver a better environmental outcome." These are important assurances, but without a legal footing they rely entirely on policy interpretation and guidance, which can be revised or inconsistently applied.

Ministers have framed this approach as a "role, not a rule", with "flexibility built in" to allow the hierarchy to be departed from where it may "restrict an EDP's ability to meet the overall improvement test strategically". This ambiguity risks creating a situation where easy offsetting becomes the default option, with no attempt to avoid or reduce harm to protected wildlife.

Reliance on planning policy alone is insufficient. Even though the mitigation hierarchy is referenced in the NPPF, failures to apply it consistently (such as in the "bat tunnel" case) demonstrate the financial and ecological cost of weak enforcement. Embedding the hierarchy in regulation would ensure that avoidance and minimisation of harm are not discretionary but legally required steps. This would not add addition burdens to developers, aligning with existing practice in policies such as biodiversity net gain and avoiding the need for more costly mitigation and remedies down the line.

Placing the hierarchy explicitly in regulations would provide Natural England with the statutory backing needed to resist harmful pressures, ensure that EDPs do not sanction unnecessary environmental loss, and ensure Government's stated intentions for the hierarchy to be considered are given substance. It would guarantee that Environmental Delivery Plans uphold the "avoid first" principle, ensuring consistency with existing law and best practice, and translating Government assurances into enforceable safeguards that protect nature while providing clarity and certainty for developers.

2. Upholding Scientific Integrity and the Precautionary Principle

Government statements have emphasised that *"all the environmental principles – including the prevention, rectification at source, and precautionary principles – must be considered by Natural England in preparing an EDP*", and the Secretary of State will have due regard to the Environmental

Principles Policy Statement, in line with the Environment Act 2021. These assurances again sit only within announcements and responses, not formally within the statutory framework.

The precautionary principle is a core environmental safeguard enshrined in the Environment Act 2021 and Environmental Principles Policy Statement, requiring action to prevent damage even where scientific certainty is incomplete. Unambiguous application within EDPs would ensure that Natural England can refuse to apply strategic offsetting to features where outcomes are uncertain, or mitigation cannot feasibly repair harm, for example, ancient woodland, lowland fen, or chalk grassland. Without this safeguard, EDPs risk permitting irreversible biodiversity loss.

3. Establishing robust baseline evidence

Amendment 148 also addresses the absence of clear procedures for assessing the baseline condition of habitats and species affected by EDPs. Ministers have *recognised "the importance of these plans relying on robust scientific evidence*" and said they were "*giving serious consideration to ways in which we might instil further confidence in respect of the rigour of the overall improvement test.. and ensure that there is more clarity about the evidential basis and environmental rationale".*

However, the Bill contains no statutory requirement to accurately assess baseline condition before an EDP is approved. Under the new process, baselines can be established entirely through impact modelling. This kind of approach may be appropriate in some circumstances (such as assessing the pollution load from new housing) but in other case is it fraught with risk. If modelling is based on incomplete information, then entire species populations could be imperilled by development.

The only way to obtain accurate baseline information will be ecological survey work. Without it, the ability to measure damage to protected wildlife and assess genuine "improvement" is severely compromised. In many cases, it would be impossible to accurately judge whether the overall improvement test has been met with modelling undertaken on the basis of incomplete or outdated information.

To live up to its promises of accurate scientific evidence, the Government should set out clear scientific standards for the assessment of the appropriateness of the EDP approach for particular environmental features, as well as a rigorous process of assessment of environmental baselines so that damage and benefits can be assessed properly. Otherwise, the reality could be that EDPs end up proceeding on the basis of guesswork.

4. Protecting Irreplaceable Habitats

Government has stated unequivocally that "*network measures could never be used where to do so would result in the loss of an irreplaceable habitat as this would inherently not pass the overall improvement test*". Defra's own letter to peers on 16 September reaffirmed that "*an EDP could not allow action to be taken that resulted in loss or irreparable harm to an irreplaceable habitat*". This is

welcome, but it must be on the face of the Bill. Without explicit statutory protection, such assurances remain discretionary.

Relying solely on planning policy is not enough. Although the National Planning Policy Framework recognises the importance of irreplaceable habitats, it does not define them exhaustively, and the long-promised Government consultation on a definitive list has yet to be delivered. In the meantime, cases of harm to ancient woodland, veteran trees, and other irreplaceable habitats continue to occur, even under existing policy. This demonstrates that policy guidance alone cannot guarantee protection when weighed against competing development pressures.

Including a **formal list of irreplaceable habitats**, consistent with the promised list for the National Planning Policy Framework, would close this gap and give legal certainty that these habitats cannot be traded off within the new strategic delivery system.

Amendment 148 summary:

This amendment translates ministerial intentions into enforceable law, setting in place the detail needed for EDPs to be implemented successfully. Without it, key environmental safeguards risk being eroded in practice. Placing these principles in regulation would:

- Guarantee that the mitigation hierarchy formally governs the production and application of EDPs, not merely loosely guiding them;
- Secure the use of best available science and precaution in decision-making;
- Ensure clear baselines are established before plans proceed;
- Protect irreplaceable habitats from strategic trade-offs; and
- Provide clarity and accountability for the public, developers, and regulators alike.

The Government's own words affirm the necessity of these elements. Amendment 148 simply ensures they are delivered as promised, giving Natural England the clear legal framework it needs to implement EDPs with integrity, and ensuring that nature's protection is not left to guidance and goodwill.

Amendment 130: Limiting EDPs to diffuse environmental issues

Tabled by: Baroness Willis of Summertown, Lord Roborough, Baroness Young of Old Scone, Baroness Grender

This amendment would limit the application of Environmental Delivery Plans (EDPs) to issues where strategic, landscape-scale approaches are proven to work—specifically nutrient neutrality, water quality, water resources, and air quality. It would ensure that the new Nature Restoration Fund (NRF) and EDP system is applied only where there is robust evidence that it can deliver real environmental improvement, while preventing its use for features such as protected species and irreplaceable habitats - where the science is untested or demonstrably inappropriate.

The Government's proposed EDP model would replace site-level assessment and licensing with strategic mitigation and off-site compensation. While this may be effective for addressing diffuse, catchment-scale pressures such as nutrient pollution or water quality, where benefits depend on coordinated, landscape-wide action, there is no scientific evidence that such approaches can work for most species or site-specific habitats.

Aside from great crested newts, there is no proven case where strategic compensation has secured successful outcomes for protected species such as bats, dormice, water voles, sand lizards, or barn owls.

For species with complex ecological needs or highly localised distributions, the loss of even a single site can mean irreversible decline. The risk is that an unproven "strategic" model could replace effective, site-specific protection with paper-based offsets that fail to deliver in reality.

The proposed amendment offers a clear, evidence-based distinction between where the EDP model can and cannot work. Strategic mechanisms can deliver genuine benefit for nutrient neutrality, water resources, and air quality, where outcomes depend on catchment management, rather than individual sites. By contrast, applying EDPs to species and habitats would be scientifically unsound, ethically questionable, and contrary to the precautionary principle embedded in the Environment Act 2021.

As Link's *Environmental Development Plans: A Precautionary Approach for Species report* sets out, strategic offsetting for species would risk:

- Weakening long-established legal safeguards under the Habitats Regulations and the Protection of Badgers Act;
- Undermining local ecological assessment, making it impossible to track population-level change;
- Creating "conservation voids" where sensitive species are displaced without the chance of recovery ; and
- Significant animal wellbeing and welfare concerns.

Amendment 140 (After Clause 55): Environmental enhancements in new developments
Tabled by: Baroness Grender & Baroness Jones of Moulsecoomb
& Amendment 245: Swift bricks in building regulations: Lord Goldsmith of Richmond Park

This amendment would require the Secretary of State, within six months of Royal Assent, to make Building Regulations for biodiversity—ensuring that all new developments incorporate simple, effective, and low-cost features such as swift bricks, bat boxes, hedgehog highways, and biodiverse roofs and walls. The regulations would link new-build design to the biodiversity targets and interim targets in the Environment Act 2021, embedding nature recovery into the fabric of construction. At a time when Government aims to deliver 1.5 million new homes this Parliament, this measure represents an easy win, making every new home a small step toward the UK's environmental goals.

Why this is needed:
Despite widespread public and political support, the voluntary inclusion of nature-friendly features in housing, and requirements via local planning policy, has been patchy and unreliable. A recent survey of 6,000 homes across 42 developments found that only 53 per cent of promised biodiversity features were delivered, with 83 per cent of hedgehog highways, 100 per cent of bug boxes, and 75 per cent of bird and bat boxes missing after completion. Too often, ecological enhancements are promised at the planning stage but dropped before construction.

These missed opportunities matter. Populations of once-common species such as swifts and hedgehogs are declining sharply because modern buildings lack nesting cavities and safe routes. Making biodiversity features mandatory would guarantee delivery, helping halt declines while improving the quality and character of new places.

Planning policy is not sufficient to ensure consistent delivery. Planning conditions and local policy requirements can too easily be diluted, overlooked, or lost between consent and completion, as enforcement lies primarily with local planning authorities that often lack the resources to monitor compliance in detail.

By contrast, Building Regulations provide a much more reliable and uniform mechanism for implementation, as they are embedded within the technical standards and inspection processes that govern every stage of construction. It is appropriate to include measures such as swift bricks, bat boxes, and hedgehog highways within Building Regulations, which already address related areas such as ventilation openings, emissions and energy efficiency under Part L, and air bricks. Integrating biodiversity features in this way would ensure they are treated as standard components of good building design, delivered consistently, inspected properly, and contributing directly to both environmental and construction quality objectives.

Benefits:

- **Cost-effective and practical**. Such measures are cost-effective, and can deliver real benefits. Swift bricks cost between £31 and £50, replacing a standard brick, installed as part of the normal build process with negligible cost or delay. Wildlife-friendly bricks and nesting boxes are well-tested technologies that integrate easily into modern design.
- **Backed by industry**. The Homes for Nature commitment, supported by 28 major housebuilders, already pledges to install bird-nesting bricks and hedgehog highways in all new developments from 2024, delivering over 300,000 nesting sites annually. This amendment would simply bring the whole sector up to the same standard.
- **Proven and popular**. Many local authorities, such as Brighton & Hove, have already successfully required enhancements such swift bricks in response to ecological emergency declarations. Public surveys show overwhelming support for greener, wilder neighbourhoods, and such features have no negative impact on building integrity or cost.
- **Multiple co-benefits**. Nature-positive design helps manage stormwater and overheating through green roofs, supports pollinators, and enhances residents' mental and physical wellbeing, saving public health costs and improving community satisfaction.

These amendments would ensure that every new home helps, rather than harms, the natural world. By establishing a biodiversity chapter in the Building Regulations, the Government can action it's pledges to deliver a "win-win" for nature and development and demonstrate its mantra that nature and growth can go together. This would be in line with its manifesto pledges to simultaneously address the nature crisis and housing crisis, through the delivery of simple, cost-effective, proven measures that protect wildlife and create healthier, more attractive places to live.

Amendment 114. (After Clause 52): Duties in relation to climate change

Tabled by: Lord Ravensdale, Baroness Parminter, Lord Krebs, and Baroness Young of Old Scone

This amendment would create a **new climate change & nature duty** in planning, requiring the Secretary of State and local planning authorities to have *special regard* to the mitigation of, and adaptation to, climate change when preparing national and local policy and when making individual planning decisions. It would align the planning system with the UK's legally binding targets under the Climate Change Act 2008 and the Environment Act 2021, ensuring that every planning decision contributes to net zero and nature recovery.

Currently, national climate and nature duties have not been fully "passed down" to the local level, despite local planning decisions determining the UK's ability to meet those national goals. This amendment closes that gap and would help bring long-overdue clarity and consistency to how climate and environmental objectives are delivered through the planning system.

Why this Duty is needed:

The UK's planning system is one of the most powerful tools for shaping a sustainable future, yet it currently lacks any statutory obligation to contribute to climate or nature targets. Existing duties, such as the general requirement to "promote sustainable development" or strengthened biodiversity duty under the Natural Environment and Rural Communities Act 2006, are vague, unmeasurable, and inconsistently applied.

The result is incoherence, developments that lock in high carbon emissions and habitat loss are routinely approved, while low-carbon, nature-positive proposals can be refused on narrow technical grounds. The UK remains "largely off track" to meet its environmental targets, and with a Government ambition to build 1.5 million homes by the end of this Parliament, the decisions taken by local authorities are even more important to ensure we achieve out net-zero pathway and nature recovery goals.

Many councils have declared climate and nature emergencies and are already striving to lead on green planning. But without a clear legal duty, they face uncertainty and vulnerability to challenge when making environmentally ambitious decisions. This amendment would give them the statutory foundation they need.

Benefits of a statutory climate and nature duty:

1. **Legal clarity and consistency** – The duty would provide a clear and measurable direction for all tiers of planning, replacing loosely defined "sustainable development" language with a legal requirement to support mitigation and adaptation. Underpinned by associated planning policies, such as carbon accounting, this consistency would help align plan-making, infrastructure design, and investment across the country.

2. **Certainty for developers and investors** – Over **100 businesses** from the built environment sector have twice called for a planning system that aligns with the UK's environmental and net-zero commitments. Clear legal duties would help de-risk investment with a clear direction of travel, encourage innovation in low-carbon and nature-positive design, and create a level playing field for responsible developers. Likewise, we such legal direction underpinned by - and enabling - the right planning policies, such as a clear and consistent methodology for handling carbon considerations in planning, and demonstrating compliance, these clear 'rules of the game' would help avoid subjectivity and legal challenges brought citing incompatibility with other legislation.
3. **Empowering local authorities** – Backed by adequate resources, the duty would empower local authorities to translate national targets into local delivery, supporting joined-up climate action and giving weight to environmental objectives alongside existing economic duties such as the "growth duty" in the Deregulation Act 2015, allowing for a more balanced approach.
4. **Reducing bureaucracy, improving outcomes** – By replacing multiple fragmented requirements with one coherent statutory obligation, the duty would streamline environmental governance while ensuring that thousands of planning decisions each year work cumulatively toward net-zero and nature recovery.
5. **Ensuring resilience and long-term savings** – Embedding adaptation in decision-making will reduce the long-term costs of flood risk, overheating, and infrastructure retrofits; delivering better outcomes for communities, the economy, and the environment alike.

The Local Government Association, the UK Green Building Council, leading businesses, and the Climate Change Committee have all called for stronger statutory duties on local authorities to tackle climate change. Across the political spectrum, there is recognition that delivering net zero depends on aligning planning with environmental goals. This amendment provides the practical, proportionate mechanism to achieve that.

If the Planning and Infrastructure Bill is truly to deliver a "win-win" for development and nature, it must embed climate and environmental responsibility at the heart of planning. This amendment provides the clarity, accountability, and ambition needed to make that vision real, ensuring that the places we build today are fit for a nature-rich, climate-resilient tomorrow.

Amendment 44: Duties of the Forestry Commission in Relation to Land Use, Climate and Nature

Tabled by Earl Russell, Lord Krebs, Baroness Young of Old Scone and Baroness Bennett of Manor Castle

Amendment 44 would modernise the Forestry Commission's statutory duties to reflect the environmental challenges of the 21st century. It would require the Commission, in carrying out its functions, to contribute actively to the achievement of legally binding climate and biodiversity targets, to balance the demands of energy infrastructure with the maintenance of vital ecosystem services, and to safeguard irreplaceable habitats such as ancient woodland.

The Forestry Commission was established in 1919 to rebuild timber reserves after the First World War. Although its remit was broadened in the 1980s to recognise the importance of conservation, its core legal duties remain rooted in a century-old focus on timber production. This amendment would bring the Commission's responsibilities into alignment with modern environmental law, ensuring that its work supports the ambitions of the Environment Act 2021, the Climate Change Act 2008, and the Environmental Improvement Plan (EIP).

Why change is needed:

The Public Forest Estate, managed by Forestry England, an agency of the Forestry Commission, includes some of England's most ecologically valuable land. Yet the statutory framework governing the Commission does not fully reflect the urgency of nature recovery and climate adaptation. While Forestry England and the Commission have made progress in incorporating conservation into their activities, the lack of a clear duty to deliver nature and climate outcomes means that progress is uneven and often secondary to other priorities.

There are growing concerns that this outdated framework has led to decisions inconsistent with national environmental policy. Progress on ancient woodland restoration, for example, has been painfully slow: despite a Government commitment under the Keepers of Time policy to restore all plantation on ancient woodland sites by 2030, Forestry England supported the restoration of just one hectare of private woodland in 2022/23 and six hectares in 2023/24. Invasive species control has also been weak; the Commission has grant-funded the planting of false acacia (Robinia pseudoacacia), one of Europe's most damaging invasive tree species. At the same time, developments such as the proposed Hamsterley Forest holiday park—supported by Forestry England despite its location in ancient woodland—demonstrate how financial pressures can override environmental protection.

These examples highlight a broader structural problem: the Commission's statutory purpose has not kept pace with government policy or the scale of the ecological crisis. Without a clear legal requirement to contribute to nature recovery and climate mitigation, environmental objectives risk being treated as optional rather than essential.

Embedding a duty to deliver for climate and nature within the Forestry Commission's legal framework would bring clarity, accountability, and consistency to the management of England's forests. It would ensure that all decisions—whether about land acquisition, leasing, development, or woodland

creation—are guided by measurable and time-bound objectives that contribute directly to national climate and biodiversity targets.

This change would also strengthen alignment across government, ensuring that the Commission's actions support the Environment Act's targets, the EIP, and the UK's Net Zero Strategy. It would enhance transparency and efficiency, making clear how public land is used to achieve public goods. Importantly, by requiring the Commission to avoid direct or indirect harm to designated sites and irreplaceable habitats, the amendment would help protect the ecological integrity of the Public Forest Estate for future generations.

Updating the Commission's duties would also prompt modernisation of its governance. Currently, members of the Forestry Commission's Board are only required to have expertise in timber and forestry. A new statutory duty for climate and nature would ensure that biodiversity, climate science, and ecosystem management expertise are represented at the highest level of decision-making.
The Forestry Commission manages one of the most significant public landholdings in England. Its decisions shape not only the health of our woodlands, but also their role in tackling the twin crises of nature loss and climate change. By modernising the Commission's duties, Amendment 44 would ensure that its future work reflects the country's environmental priorities—balancing timber production with biodiversity, carbon storage, recreation, and resilience.

This is a low-cost but high-impact reform that would align a century-old institution with today's legal and moral imperatives.

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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