



Planning and Infrastructure Bill

Nature-based Solutions Initiative Briefing Note.

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Summary

The **Planning and Infrastructure Bill**, currently being debated in the House of Lords, has far-reaching implications for biodiversity, local democracy, and community wellbeing. While the Bill is intended to speed up planning and deliver new housing and infrastructure, all three parts of the Bill pose severe threats to biodiversity and local democracy. In particular, the proposed mechanisms in **Part 3** risk enabling the destruction of some of England's most precious habitats and species.

In this briefing note we address Part 3 first, followed by a shorter summary of issues with Parts 1 and 2. We summarise key problems and identify which of the proposed amendments are most important for reducing the risk of biodiversity loss. We also identify opportunities to improve outcomes for nature and people through positive amendments. We provide an ordered list of all the most important beneficial amendments in Appendix 1, with a longer summary of all the part 3 amendments in the Appendix 2.

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Problems with Part 3 of the Bill

The big problem with Part 3 is that it allows destruction of **any existing habitat, even our most valuable nature reserves** and **habitats critical for endangered species**, so long as a 'replacement' habitat is created somewhere else through an 'Environmental Delivery Plan' (EDP) developed by Natural England, funded by a levy on developers (the 'nature restoration fund').

This will have devastating impacts on nature because:

- **Existing mature habitats are generally far more valuable than newly created replacement habitats**, especially those that are in good condition. For example, it takes over 100 years for trees to develop holes, cracks and crevices and dead wood needed as shelter, nesting and hibernation sites for birds, bats and insects.
- **Nature reserves are the last refuge for many species** that need large areas of undisturbed habitat.
- **Some habitats simply cannot be recreated somewhere else**, such as chalk streams and peatlands.
- **Many species cannot simply move to a new habitat** – they may be killed when the habitat is cleared, or may not be able to migrate to or find the new habitat, or it may not be suitable. It may not even be created at the time when the existing habitat is lost.

It may be possible for a development to make changes to avoid destroying a nature-rich site, but there will be very little incentive to do this, as the 'nature restoration fund' payments must not make the development 'unviable'.

It is true that the current system was failing to stop the decline of nature – partly because hundreds of SSSIs and other nature sites were already being lost or damaged due to development, and partly for other reasons like pollution - but the answer is to strengthen protections for existing habitats, not scrap them.

The Bill is intended to deliver improvement because it will allow new compensatory habitats to be created in a joined-up way, with oversight from Natural England. However, while this type of strategic offsetting could make sense for typical housing developments on relatively low-biodiversity value farmland, Part 3 of the Bill is explicitly focused on creating a mechanism to allow development on protected sites and development that affects protected species, which would not previously have been allowed.

See **Clause 55(2)**: An environmental feature identified in an EDP may be—

- a. a protected feature of a protected site or
- b. a protected species.

This is confirmed by **Clause 66**: Schedule 4 sets out how a commitment by a developer to pay the nature restoration levy in relation to a development results in—

- an environmental impact of development on a protected feature of a protected site being disregarded for the purposes of obligations under the Habitats Regulations 2017, the Wildlife and Countryside Act 1981 or the Marine and Coastal Access Act 2009;
- a developer being treated as having been granted a licence under regulation 55 of the Habitats Regulations 2017, section 16 of the Wildlife and Countryside Act 1981 or section 10 of the Protection of Badgers Act 1992.

In other words, sites and species protected by the Habitats Regulations and Wildlife and Countryside Act can be destroyed, even Ramsar sites, SSSIs, National Nature Reserves and Local Nature Reserves. Three separate legal opinions have confirmed this, despite what the Government says.

Even if creation of compensatory habitats is strategic and overseen by Natural England, it seems unlikely that destruction of England's most biodiverse sites can ever be fully compensated for, let alone deliver a material benefit for biodiversity. It's worth noting that the sites which are currently most strongly protected (RAMSAR wetlands, Special Protection Areas and Special Areas of Conservation) only cover 5% of England's land area, with National Nature Reserves, Local Nature Reserves, RSPB reserves and SSSIs adding a further 2%. While removing protection from these areas risks major impacts on biodiversity, it is unlikely to contribute significantly to providing more land for housing and infrastructure. In contrast, 70% of England is farmland, offering more suitable locations for development (provided that high grade land is avoided).

Where EDPs are created:

- Developers pay a 'Nature Restoration Levy' but this **must not make development 'unviable'**, and they can appeal
- **Compensation can be many years after loss**, and far away – there are no criteria governing this.
- **There is no consultation** outside government (only LPAs, Natural England, Environment Agency and JNCC etc will be consulted); only 28 days for consultation response (not long enough for a proper scrutiny)
- **Objections are very difficult**: only 6 weeks to file for judicial review.
- **Secretary of State can amend or revoke** an EDP and **overrule Natural England**. Also, NE itself is under government control - a new government could replace the head of NE with someone else, and NE relies on government for its continued existence and budget, so we can't rely on NE to safeguard nature indefinitely.
- **The EDPs only last 10 years** and it's not clear what happens after that to ensure continued protection and operation of any compensation sites or measures. Could the newly created sites themselves then be destroyed?

How to make Part 3 of the Bill less damaging

1. **Re-instate the mitigation hierarchy (avoid damage if possible, then reduce damage as far as possible, and only compensate for damage as a last resort).** VOTE FOR AMENDMENTS **258A, 275, 245, 301, 336, 341.**
2. **Protect irreplaceable habitats** such as ancient trees and ancient woodland, peat bogs and chalk streams. VOTE FOR AMENDMENTS **242** and **301.**
3. **Protect the most vulnerable species.** VOTE FOR AMENDMENT **255:** The Joint Nature and Conservation Committee (JNCC) must publish a list of protected species which would not be suitable for inclusion in an EDP as this would be unlikely to improve their conservation status, considering:
 - the tendency of a species to be loyal to a specific site,
 - the difficulty in translocating a particular species to a new location, and
 - the need for a site-specific assessment to assess the presence of a species.
4. **Strengthen the overall improvement test.** VOTE FOR AMENDMENT **290** to protect the most important sites and species as far as possible and AMENDMENT **300** to ensure to "a high degree of certainty based on an objective assessment that significant and measurable improvement to the conservation status is achieved within the period covered by the EDP".
5. **Deliver compensatory habitats in advance,** before the protected habitats are destroyed. VOTE FOR AMENDMENTS **237, 265** and **290.**
6. **Reduce risk of political interference.** VOTE FOR AMENDMENT **294:** SoS cannot modify an EDP if it reduces measures.

Opportunities for positive changes in Part 3

1. **Make Sustainable Drainage Systems mandatory** in new developments by finally implementing Schedule 3 of the Flood and Water Management Act 2010. This is vital for reducing flooding and especially for reducing sewage discharges into rivers during heavy rain. AMENDMENTS **337** and **342.**
2. **Create a category of 'Wildbelt' in planning** which is permanently protected from development, linked to Local Nature Recovery Strategies (LNRs). AMENDMENT **339.**
3. **Make developments nature-friendly.** Enable installation of bird boxes; bat boxes; swift bricks; hedgehog highways; and biodiverse roofs and walls in new developments. AMENDMENT **338.**
4. **Healthy Homes.** Amendment **351.** New homes must be safe, healthy, low carbon, climate resilient, and have access to green space.

Issues with Parts 1 and 2 of the Bill

Part 1: Infrastructure (Nationally significant infrastructure, electricity and transport)

- Secretary of State can remove the requirement for development consent for NSI
- **No duty to consult** (including local community). Government made an amendment to remove all statutory pre-application consultees (see [here](#)) meaning that there will be no opportunity to assess and avoid potential harm to nature at this crucial first stage.
- **Objections near impossible**
- Developers can forcibly enter and survey land they want to develop
- Secretary of State can amend requirements for Environmental Impact Assessments and grant marine licenses in renewable or economic zones
- Forestry Estate land can be used for renewable energy projects

Part 2: Planning, including new spatial development strategies

Good points:

- A spatial development strategy must be designed to secure that the use and development of land in the strategy area contribute to the mitigation of, and adaptation to, climate change.
- A spatial development strategy must take account of any local nature recovery strategy.

Points that undermine local democracy, opportunities to challenge, and expert input:

- SoS can interfere with planning decisions and the composition of planning committees
- Spatial development strategies can be controlled by SoS
- Only people invited by the SoS may take part in the examination of the SDS
- SoS can take over or alter the SDS if they consider it is 'failing', or force it to be passed even if the authority voted against it, and then charge the authority for the cost of them doing that!

Opportunities for positive change in Parts 1 and 2

1. **All Local Authorities must develop a Local Energy Plan** showing how they will transition to Net Zero. Amendment **90**.
2. SoS must provide guidance on how to develop **Local Energy Plans to deliver Net Zero** Amendment **177**.
3. **Mandatory training for planning authorities must include training in biodiversity and climate change issues**. Amendment **100**.
4. **Solar panels on car parks**, major road projects, bus and train stations etc where practicable Amendment **63**; or just on car parks, Amendment **106**.
5. **Publish a register of political donors who have been granted planning permission**. Important for transparency and trust. Amendment **120**.
6. **New developments must deliver and care for green spaces** in consultation with local communities. Amendments **121** and **138**.
7. **Deliver at least 20% affordable housing**. Amendment **122**.
8. **Overheating of homes**. SoS must provide data on overheating risk to Local Authorities, for use in Local Plans. Amendment **125**, and Local Planning Authorities may impose planning conditions to reduce overheating risk in homes, Amendment **126**. SoS must provide guidance on a 'Cooling hierarchy' for new homes including the use of passive cooling measures etc. Amendment **181**.
9. **Flood resilience**. New developments should contribute to climate resilience and flood resilience, Amendment **135C**. **Local plans should fully consider flood resilience** including by directing development away from high-risk areas, safeguarding land needed for green infrastructure and natural flood management; building in sustainable drainage systems and making homes flood resilient where needed, Amendment **155**. (See also **108**: No houses on floodplains; **109** and **227A**: New homes at risk of flooding must be built to be flood-resilient; **135B**: Planning permission decisions should consider impact of developments on flood risk elsewhere).
10. **Protect Local Wildlife Sites** in Spatial Development Plans, Amendment **150**.
11. **Local Plans must consider compliance with Local Nature Recovery Strategies and the Land Use Framework**. Amendment **178**.
12. **Planners and developers must apply the principles of sustainable development**, including protecting human health and biodiversity and respecting environmental limits. Amendment **185D**.
13. **Development Corporations** must ensure access to **high quality green spaces** within 15 minutes' walk of homes, blue spaces, designed into new development; accessible community land for growing; and street trees and greenery to provide shading. Amendment **206**.

14. **Zero carbon homes** must be mandatory, including rooftop solar where reasonably practicable. [Rooftop solar reduces pressure to create solar farms on sites needed for nature and food production. The government has already announced their intention to encourage rooftop solar and this would enact it in the Bill]. Amendment **216**.
15. **Local authorities can compulsorily purchase land where planning permission has expired**. Will stop developers sitting on land, not building, and thus forcing local authorities to miss their housing targets so that the Local Plan can then be ignored, with a free-for-all on speculative development – disastrous for nature and people. Amendment **219**.

Impact of the P&I Bill when combined with other policies

The P&I Bill needs to be considered alongside other changes.

- **House building targets have been massively increased**. If Local Planning Authorities do not allocate sufficient land in their Local Plan, they go the “tilted balance” - a presumption in favour of speculative development everywhere in that LPA.
- **Greenbelt protections have been weakened, with the introduction of 'greybelt' as a planning concept**. Redefining land as greybelt means removing two of the five key greenbelt principles: protection of the countryside and promotion of urban regeneration. Development is now far more likely at the edge of settlements, where land conversion is cheap, easy and lucrative, but this is often less intensively cultivated and more ecologically sensitive because field sizes are smaller, with more hedges. Also these areas are often heavily used by local people to support their health and wellbeing.
- **Incentives to develop derelict brownfield areas in city centres are reduced**. In fact, a 'brownfield first' local plan in Sheffield was recently rejected by the Planning Inspector. They now have 8 months to allocate more greenfield land or their plan doesn't pass, throwing them into the “tilted balance”. So they have scrambled to allocate some greenbelt sites in the poorer east of the city where protections are weaker, not the west where the National Park creates a firm boundary. That raises questions of **social justice**/ differential health and wellbeing impacts. Also, some of these sites are important for wildlife.
- **There is evidence that Biodiversity Net Gain does encourage developers to avoid the most ecologically sensitive sites**. However, with more moderately sensitive ecological sites, it may not act to discourage development since developers can mitigate harms at a relatively low cost. This is because the land to be used for ecological offsets is factored into the land price (so the landowner, effectively pays, not the developer), and the cost of maintenance offloaded onto communities via estate management charges (in offsite offsetting maintenance is built into the price of a credit).
- **BNG isn't really being delivered by developers on the ground** because there's no planning enforcement. Even where BNG is delivered, what is provided may not be as good for some species as others.

- In this way, **increased housing targets + greenbelt release + removal of ecological protections in Part 3 + introduction of Nature Restoration Fund/EDPs + lack of enforcement and monitoring of either BNG or EDPs = a SIGNIFICANT emerging problem**, with each element magnifying the negative impacts of the others. This combination will accelerate biodiversity losses in real life, while pretending not to do so on paper. (There are also implications for carbon, as many of these urban edge sites are more car-dependent than city centre locations).
- **Removal of decision-making powers from elected local councillors, and the restriction of the ability of local people to comment on plans** also have significant implications for ecology. Local communities often challenge poor ecological reports, noting species and communities that the ecologist has missed. Consultation isn't just a democratic right - it tends to *improve spatial outcomes* both socially and ecologically. So speeding up the planning process to exclude it is problematic. Much of the delay on the public sector side is due to the under-resourcing of LPAs, plus very significant delays on the private sector side due to lack of labour post-Brexit and deliberate slow construction to keep prices high.

Appendix 1: Ordered list of top priority beneficial amendments across all three Parts of the Bill

Here we focus mainly on amendments related to nature and climate; this does not mean others are not also important.

Parts 1 and 2

63: Solar panels on transport infrastructure where practical

90: Local Authorities must develop a **Local Energy Plan to deliver Net Zero**

100: Training for planning authorities to include biodiversity and climate change literacy

106: Solar panels on car parks

120: Register of political donors who have been granted planning permission.

121: New developments must deliver and care for green spaces, consulting local communities.

122: Deliver at least 20% affordable housing.

138 New developments must deliver green spaces

125: SoS must provide data on **home overheating risk** to Local Authorities.

126: Local Planning Authorities may impose **planning conditions to reduce home overheating risk.**

181: Guidance on a 'Cooling hierarchy' for new homes including passive cooling measures.

135C: New developments should contribute to climate resilience and flood resilience

155: Local plans should avoid high flood-risk areas, safeguard land for natural flood management; build in sustainable drainage systems and make homes flood resilient where needed,

108: No new houses on floodplains

109: New homes at risk of flooding must be built to be flood-resilient

227A: New homes at risk of flooding must be built to be flood-resilient.

135B: Planning permission should consider impact of developments on flood risk elsewhere.

150: Protect Local Wildlife Sites in Spatial Development Plans.

177: SoS must provide guidance on **Local Energy Plans to deliver Net Zero.**

178: Local Plans comply with Local Nature Recovery Strategies and Land Use Framework.

185D: Planners and developers must apply the principles of sustainable development

206: Development Corporations must ensure access to **high quality green spaces.**

216: Zero carbon homes mandatory, including rooftop solar where practicable.

219: Local authorities can compulsorily purchase land where planning permission has expired.

Part 3

237: Deliver compensatory habitats in advance, before the protected habitats are destroyed.

242 Protect irreplaceable habitats such as ancient trees and woodland, peat bogs, chalk streams.

245 Re-instate the mitigation hierarchy to avoid damage to biodiversity if possible

255: JNCC to publish list of vulnerable species not suitable for EDPs

258A Re-instate the mitigation hierarchy to avoid damage to biodiversity if possible

265 Deliver compensatory habitats in advance, before the protected habitats are destroyed.

275 Re-instate the mitigation hierarchy to avoid damage to biodiversity if possible

290 Protect the most important sites and species and deliver compensatory habitats in advance.

294: SoS cannot modify an EDP if it reduces measures.

300 Stronger improvement test, requiring high certainty of significant and measurable improvement

301 Re-instate the mitigation hierarchy and protect irreplaceable habitats

336 Re-instate the mitigation hierarchy to avoid damage to biodiversity if possible

337: Make Sustainable Drainage Systems mandatory in new developments

338: Nature-friendly housing: bird boxes; bat boxes; swift bricks; hedgehog highways; green roofs.

339: 'Wildbelt' permanently protected from development, linked to Local Nature Recovery Strategies

341. Re-instate the mitigation hierarchy to avoid damage to biodiversity if possible

342. Make Sustainable Drainage Systems mandatory in new developments

351: Healthy Homes. New homes must be safe, healthy, climate resilient, access to green space.

Appendix 2: Summary of Part 3 amendments

Below is a summary of the main amendments in the third marshalled list **for Part 3**, indicating those that we think would lead to improved outcomes for nature and those that could make outcomes even worse.

- Amendments highlighted in **green and bold** are likely to lead to better outcomes for nature.
- Those in **grey** are likely to lead to worse outcomes for nature.
- Those not highlighted are considered to have less significant or more uncertain impacts.
- Our comments are in [square brackets].

To reject the Bill outright: a cross-party group of four Peers (Con, Lab, Lib Dem, Green) have announced their intention to oppose all clauses of the Bill.

Government amendments

Although there are still major problems with the Bill, the Government amendments to Part 3 are generally helpful and **voting for them would improve outcomes for nature**.

245A: EDP must set out sequencing of implementation of measures

246A, 247A, 258B: Specifies that any off-site conservation measures in an EDP should make a greater contribution to conservation than measures that address the environmental impact of development on the feature at the protected site itself.

248A: An EDP must include back-up conservation measures in case the primary ones don't work, and must specify the criteria for when to implement the backup measures.

256B: Natural England must explain how the conservation measures will enable the EDP to pass the overall improvement test.

262A: removes clauses about monitoring; to be replaced with new Clause 76(4)

Remove Clause 58: this clause lists all the other plans and strategies that need to be considered; this material is split between Clause 59 and a new clause 87A instead.

280: NE must consult any Local Authority that has prepared an LNRS within or adjacent to the development area.

286A: Makes the overall improvement test stronger by replacing "likely to be sufficient to outweigh the negative effect of the EDP development" with "effect of the conservation measures will materially outweigh the negative effect of the EDP development". [This is weaker than cross-party amendment 286 which is better, see below].

295A: NE must include detail in the mid-way and final reports about whether the overall improvement test is being met.

295B: NE must consult on any amendments that increase measures or the area being covered. [Oddly, NE this amendment does not require NE to consult on amendments that reduce measures].

295D: Any SoS amendments must pass the overall improvement test.

298ZA: New clause about remedial action when EDP ends or is revoked. SoS "must take such action ("remedial action") as the Secretary of State considers proportionate for the purpose of seeking to materially outweigh the negative effect".

318A: NE must monitor EDPs (moved from Clause 57 to Clause 76)

322A,B,C,D etc – about taking remedial action

346E: General duties: taking account of other plans and strategies; best scientific evidence, need to preserve the coherence of the network of protected sites.

Non-government amendments

228-230. Allow other organisations to make EDPs.

231, 232, 243, 247, 257, 259, 260, 262, 263, 267, 269, 273, etc (later ones not listed separately). Series of amendments (by Peers Coffey and Caithness) that give SoS the responsibility for preparing the EDP instead of NE. 231 also include restrictions on compulsory purchase; 280 requires NE to be consulted on the EDP.

233: NE must consult RICS when specifying development thresholds

234: EDP must come into force <= 6 months after planning permission granted.

235: EDP must include a review date, and the end date [max 10 years anyway] can be 'appropriate to the measures proposed'

236: EDP must include a management plan for after the end of the EDP

237: EDP must include a timetable for implementing each measure and where damage is likely to be significant, improvements **must be delivered in advance**. Also NE must take into account the precautionary principle and the prevention principle and explain how this was done.

238-240: All affected features must be covered by the EDP.

241: Leave out 'may be a protected species'

242: Exclude irreplaceable habitats as defined under BNG or similar

242A: (Baroness Young of Peers for the Planet): An environmental impact identified in an EDP may only affect nutrient neutrality, water quality, water resource or air quality." i.e. issues where approaches at a strategic landscape scale will be effective. [This would remove biodiversity impacts from the scope of the Bill, but would not tackle the fundamental problem that protected sites could still be destroyed].

244: EDP should contribute to 'a significant improvement' in conservation status, not just 'an improvement'. [Replaced by similar amendments].

245: Comply with the mitigation hierarchy

246: An EDP passes the overall improvement test if the conservation measures will be sufficient to significantly and measurably outweigh the negative effect caused by the

environmental impact of development on the conservation status of each identified environmental feature and to achieve a significant environmental improvement. [Stronger than government version but **same as 286**].

248: Excludes rivers, streams and blanket bogs from EDPs.

252: treat all rivers as if protected.

249: EDP must state how measures are to be monitored, the scientific basis for the conservation measure proposed, how the EDP relates to local policies and in particular local nature recovery strategies, and the timeframe required to address the environmental impact of development on the identified environmental feature.

251: Seeks to apply mitigation hierarchy [but maybe not worded correctly in the light of the current text of the clause, which says 'measures' can be planning conditions.]

253: Non-native invasive species must be eradicated where they are threatening species.

254: All **chalk streams must be designated as protected sites** [n.b. limited impact as protected sites will no longer be protected under this Bill].

255: The Joint Nature and Conservation Committee (JNCC) must publish a list of **protected species which would not be suitable for inclusion** in an EDP under section 55(2)(b) because their inclusion would be unlikely to contribute to the overall improvement in their conservation status. The JNCC assessment required under subsection (1) may consider among other criteria

—

- the tendency of a species to be **loyal to a specific site**,
- the **difficulty in translocating** a particular species to a new location, and
- the **need for a site-specific assessment** to be undertaken in order to assess the presence of a species.

256: "When considering the ...charging schedule..., Natural England must not include any potential capital costs for the purposes of acquiring land. [Anti-compulsory purchase clause, but the question then is who should pay – the taxpayer?].

258, 268: EDP must explain why private finance could not be used to fund the measure; existing private market solutions should be prioritised over an EDP, if the solutions can fully address and mitigate an identified environmental feature within a development, without delay to the planning process.

258A*: (Baroness Young of Peers for the Planet): EDP must explain how the mitigation hierarchy has been adhered to. [**This is extremely important**].

261: EDP must 'have due regard' to LNRS. [This is weak, and also, in line with other amendments by this group (Coffey, Caithness), this states that the SoS prepares the EDP, not NE].

264: EDP must test for appropriate consultation, cost-effectiveness, mitigation hierarchy.

265: There must be an implementation schedule, and where there is any likely irreversible damage to the integrity of a protected site network, an ecosystem, or a species population, the corresponding conservation measures must result in an overall improvement in the conservation status of any relevant features and ecosystems **prior to the damage being caused**

266: EDPs must show a **significant improvement** in the conservation status of the relevant environmental feature at an ecologically **appropriate scale**.

270: EDP must have regard to the Land-Use Framework [i.e. take account of other priorities such as food production; this is sensible but must not come at the expense of optimum solutions for biodiversity; also the LUF is not yet released and could place more emphasis on housing and infrastructure in the final version].

270A: EDP must take account of Local Nature Recovery Strategies (LNRs) [though already included in clause 58(2)(c).]

271, 272: Removes loophole where Local Plan / development plan, EIP and LNRs etc are only taken into account if NE considers them relevant.

275: Natural England, **having followed the mitigation hierarchy**, may only decide to prepare an EDP for a protected feature if it can demonstrate that implementing conservation measures as part of an EDP would **contribute to a significant environmental improvement** in the conservation status of the relevant environmental feature at an ecologically appropriate scale. [Same as 266 and 286 but includes mitigation hierarchy].

282: NE must consult any impacted landowners or owners of fishing rights or owners of sea fishing businesses adjacent to the EDP area.

285 obliges SoS (not NE) to reconsult after any amendments.

286: (Same as Lib 246): An EDP passes the overall improvement test if the conservation measures will be sufficient to significantly and measurably outweigh the negative effect caused by the environmental impact of development on the conservation status of each identified environmental feature and to achieve a significant environmental improvement.

290: Much tighter definition of overall improvement test. Protects European sites and species as far as possible and specifies delivery of compensation in advance.

293: NE must report on EDPs every year, not just after halfway point and at end. [This would be challenging given limited resources].

294: SoS cannot modify an EDP if it reduces measures **274:** NE must publish EOIs for anyone to deliver the EDP measures and publish all responses received. [Only suitable organisations should be allowed to deliver EDPs].

295: NE must report on impacts on local community and economy.

296: SoS must revoke an EDP if there are any non-native invasive species left in the area after 5 years [Completely impractical to eliminate all invasive species].

298A: gives anyone power to challenge an EDP if tests are not met, and hand implementation to another party.

299: SoS can make regulations to ensure nature restoration levy does not make developments unviable. [This would risk making it impossible to deliver real improvements for nature, or even to compensate for damage.]

300: Where Natural England has accepted the request to pay a nature restoration levy, the Secretary of State has a duty to take all necessary steps to ensure to **a high degree of certainty based on an objective assessment that significant and measurable improvement** to the conservation status of each identified environmental feature is achieved within the period covered by the EDP

301: Natural England may only accept the request [from a developer to pay into the NRF] if Natural England is satisfied that—

- the developer has taken reasonable steps to appropriately **apply the mitigation hierarchy**, including by seeking to avoid harm wherever possible to the protected feature, and
- in the case of a plan or project affecting an **irreplaceable habitat, a European Protected Species, or part of the National Site Network**, there being no alternative solutions, the plan or project must be carried out for **imperative reasons of overriding public interest**.

304: Costs incurred in maintaining and improving the conservation status of environmental features are funded by the developer. *In accordance with the Polluter Pays Principle: **the Levy should act as a deterrent to damaging developments, redirecting them to locations with lower environmental impacts.***

305: Developers should get a discount on the levy if they can show they are restoring biodiversity on the site or adjacent to it beyond the legal minimum. [This does not really make sense, as the levy is intended to cover restoration and maintenance costs – if the developer gets a discount, who pays – the public?]

306: Developers to be consulted by NE about the size of the levy they need to pay, and the measures to be included in the EDP [hence removing NE's independence!] and for a viability assessment.

307: Restricts the ability of NE to charge admin expenses. [Developers should pay all costs, not the taxpayer].

308: Right to appeal against levy; provision for collection and enforcement. [Developers should not be able to appeal.]

312: NE must publish list of all costs and expenses.

313: Compulsory purchase not allowed

314: NE cannot use levy to fund its admin expenses [so the taxpayer has to pay?]

324: Compulsory purchase cannot apply to private homes or gardens

325: No compulsory purchase of grazing land or high-grade farmland (1,2,3a)

335: Developers must carry out a comprehensive biodiversity audit of the site before submitting a planning application

336: Planning authorities or SoS must publish evidence to support decision to allow off-site compensation including consideration of habitat distinctiveness, connectivity and mitigation hierarchy, and how this contributes to UK biodiversity targets including halting the decline in species by 2030.

337: The Secretary of State must bring into force in England all uncommenced parts of **Schedule 3 of the Water Management Act 2010.**

338: Enable installation of **bird boxes; bat boxes; swift bricks; hedgehog highways; and biodiverse roofs and walls** in new developments.

339: **Create a category of 'Wildbelt' in planning** which is permanently protected from development, linked to LNRs.

341: Must avoid damage wherever possible, unless overriding public interest, or fully compensate, etc.

342: Enacts SuDS requirement and standards. Adds weight to the Government's newly-introduced National Standards for Sustainable Drainage Systems (SuDS) by making the right to communicate with the public sewer conditional on having applied the standards first. Changing the right to connect to the public sewer to be conditional upon first having followed the new Standards will provide a more robust incentive to developers to follow this guidance, in the absence of full implementation of Schedule 3 of the Flood and Water Management Act 2010

343: Independent body to oversee NE. [NE is already supposed to be an independent body].

344: LPA must tell NE when it allocates sites where an EDP will be needed

345: Heritage tree preservation orders

346: LAs to report on land contamination

346A: Forestry authorities in Protected Landscapes must have a duty for nature conservation regarding planning, development and infrastructure.

346B: Nuclear power stations exempt from habitat regulations and 346C EIAs and 346D no judicial review.

351: Healthy Homes. New homes must be safe, healthy, low carbon, climate-resilient, with natural light, and have access to green space.