

Wildlife and Countryside Link evidence to the All Party Parliamentary Group for Biodiversity's inquiry into planning and biodiversity

Wildlife and Countryside Link (Link) brings together 36 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together our members have the support of over 8 million people in the UK and manage over 690,000 hectares of land.

This position statement is supported by the following 16 Link members:

- Amphibian Reptile Conservation
- Badger Trust
- Bat Conservation Trust
- Buglife
- Butterfly Conservation
- Campaign for National Parks
- Campaign to Protect Rural England
- Friends of the Earth England
- People's Trust for Endangered Species
- Plantlife
- Pond Conservation
- Royal Society for the Protection of Birds
- The Mammal Society
- The Wildlife Trusts
- Wildfowl and Wetland Trust
- Woodland Trust

1. Introduction

Link welcomes the opportunity to submit evidence to the All Party Parliamentary Group (APPG) for Biodiversity's inquiry into planning and biodiversity. If we are to meet our EU and global commitments to halt and restore the loss of biodiversity by 2020 then a significant revitalisation of delivery mechanisms is required. Link believes that planning law and policy play a vital role in delivering a healthy natural environment through protecting the countryside and locally and nationally designated wildlife sites, and managing new built development and changes in most forms of land use other than agriculture. There are intimate links between planning law and policy on the one hand and Government proposals for biodiversity offsetting on the other, because offsets will be funded from the proceeds of new development, which is controlled and managed through the planning system.

Link has engaged closely with the planning reforms proposed in the Localism Act, the draft National Planning Policy Framework (NPPF) and the Government consultation on biodiversity offsetting. This submission is based on our guiding principles for biodiversity offsets, submitted to Defra in February 2011 (see Annex A for guiding principles). Link welcomed Sir John Lawton's review of

England's ecological network *Making Space for Nature*, which in turn has informed the Government's Natural Environment White Paper, *The Natural Choice*.

2. Guiding principles and recommendations

- The final NPPF should maintain existing levels of protection for the natural environment, including the countryside as a whole and Local Wildlife Sites. The omission of both categories in the draft NPPF is of major concern to Link.
- The NPPF should include explicit references to the role of Local Nature Partnerships and Nature Improvement Areas. The welcome reference in the draft to protecting tranquil areas should be expanded to a wider requirement to map tranquillity and visual intrusion, in order to combat the landscape fragmentation that damages biodiversity.
- The Government and local authorities should seek to deliver net gains for biodiversity by expanding and restoring the existing ecological network, and not merely protecting what is already there.
- Finance raised through any biodiversity offsets scheme should be ring-fenced for habitat restoration and creation.
- Biodiversity offsetting should contribute to national and local conservation objectives, including those for priority species (Section 41 of the Natural Environment and Rural Communities Act).

3. Existing levels of protection for the natural environment

Given that overall levels of biodiversity continue to decline, despite UK and international targets aimed at reversing this trend, Link believes that existing planning protection for the natural environment should be strengthened, or at least maintained. We are deeply concerned that the overall drift of Government policy, in particular the NPPF, appears to be in the opposite direction.

The draft NPPF poses problems related to its fundamental principles. In the Government's own words the 'golden thread' running through the NPPF is the presumption in favour of sustainable development. However, 'sustainable development' is not clearly defined in either the Localism Act or the draft NPPF and no reference is made to the 2005 UK Sustainable Development Strategy, even though the Strategy is still current.

The text setting out the presumption states that all individual planning proposals should be approved wherever possible: without delay when there is an adopted plan in place; and also where the plan is 'absent, silent, indeterminate or where relevant policies are out of date'. The draft NPPF also states that all of these policies should apply unless the negative impacts significantly and demonstrably outweigh the benefits, when considered against the NPPF as a whole. The only exemption allowed for this is for development affecting sites protected under the Birds and Habitats Directives, although the recent Government announcement to review implementation of the Habitats Regulations threatens to undermine this protection.

These inadequacies in the definition and implementation of sustainable development will, if the Government fails to address them, have severe implications for both biodiversity protection and the ability to address the impacts on biodiversity arising from new development. This becomes clear when comparing the draft NPPF to existing planning policy in Planning Policy Statement 1

(PPS1).¹ The draft NPPF states that adverse impacts should be avoided in preference to mitigation or compensation; and similarly also that where compensation is proposed the precautionary principle should be applied. But in contrast to existing national planning policy in PPS1 (paragraphs 19 and 29), this ‘mitigation hierarchy’ is only applied to the ‘conservation and enhancement of biodiversity’ rather than to other aspects of the environment such as landscape. PPS1 is consistent with the wording of the existing European directives on Strategic Environmental Assessment and Environmental Impact Assessment, which are designed to evaluate the impacts of plans and projects and cover significant effects on the environment as a whole, including landscape. As will be shown below, protection of biodiversity and maintaining the landscape integrity of the wider countryside are inextricably linked and the NPPF needs to better reflect this.

In its November 2010 consultation, Defra did not provide a clear road map on how biodiversity offsets would interact with the planning system, particularly the work that has been done through the Local Biodiversity Action Plan (LBAP) process. This gap must be addressed, as the implementation of any biodiversity offsets scheme will depend on the legal and policy framework of the planning system. The role of planning policies and decisions should be addressed thoroughly as part of the current biodiversity offsets pilot scheme. Link believes that once lessons are learnt from the pilots, best practice guidance on planning for the natural environment should set some guiding principles for further development of biodiversity offsets (see Annex A). In particular, Link believes that the Government should advise as to how mitigation measures generally, which may include biodiversity offsetting, will be incorporated into the neighbourhood plans and development orders that are produced under the Localism Act. We suggest that this will need to be covered in guidance on neighbourhood planning.

4. Delivering net gains for biodiversity

There is a clear commonality between Lawton and the subsequent Defra consultation, suggesting that the operation of a system of biodiversity offsets should deliver net gains for biodiversity. Link strongly supports the principle of a net gain for biodiversity. To some degree this principle is also reflected in the draft NPPF, which calls for net gains to be provided ‘where possible’. A number of references are also made in the draft NPPF (particularly paragraphs 167-168) to promoting landscape-scale conservation and ecological networks. This follows Lawton’s recommendations for such an approach, which would reverse the decline in biodiversity by joining up existing nationally designated wildlife sites into a national ecological network.

A closer read of the draft NPPF, however, raises serious questions once again as to whether the effect of proposed Government planning policies will be to deliver net gains in biodiversity. Key amongst these concerns is the omission of existing planning policy protecting the countryside as a whole for its wildlife (as well as other types of) value, as stated in Policy EC6.1 of the current PPS4:

‘Local planning authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the

¹ <http://www.communities.gov.uk/publications/planningandbuilding/planningpolicystatement1>

wealth of its natural resources including soil and food production capacity, and to ensure it may be enjoyed by all.²

We note that the protection for the 40,000 existing Local Wildlife Sites is being diluted by the NPPF, when planning is their only protection. In addition, the new Nature Improvement Areas and Local Nature Partnerships set up by the Natural Environment White Paper should be supported through the planning system, but do not feature in the draft NPPF.

In Link's view the inclusion of policies on wider countryside and Local Wildlife Sites are essential to delivering a range of benefits, including the ecological network called for by Lawton. It is important to bear in mind that a coherent national ecological network does not currently exist; instead we have an unlinked patchwork of 'islands' of protected and unprotected sites. The majority of England's countryside does not have a national or international protective designation, and capacity and resources vary markedly between the best and worst performing local authorities. General policies protecting the countryside and Local Wildlife Sites against damaging, unplanned or sporadic development in these areas is critical. We are not calling for no development to ever take place in the countryside; development has always taken place on greenfield sites and will continue to do so. But unplanned or damaging development, particularly of new roads, housing or other building that increases urban land cover, has played a key role in fragmenting landscapes, with serious knock-on effects for biodiversity and particularly threatens rare native species.³ The need to manage wider undesignated countryside so that it is not 'hostile' to nature is also acknowledged by Lawton (p.88). Such hostility can be addressed partly through agricultural policy, which Link has taken to be outside the scope of this inquiry.

Hostility can also be addressed through effective planning of new development, in particular by minimising the fragmentation or loss of countryside and other ecologically valuable land, which in some cases is classed as previously developed. For this reason Link believes that the Government should retain a commitment to both a 'brownfield first' approach and making efficient use of land for new development. At the same time it should also redefine 'brownfield' to exclude a number of categories of sites of biodiversity value.⁴ The potential of land which could be restored to quality habitat, and therefore contribute to the creation of ecological networks, must be recognised within planning policies at the local level.

Link welcomes the reference to tranquillity in paragraph 173 of the draft NPPF. To be an effective support to the creation of an ecological network, however, the final NPPF should better recognise the need to improve tranquillity, and reduce or avoid intrusion from large-scale or unplanned development in areas that might not necessarily score highly in terms of landscape value at present.

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<http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps4/>

³ See, for example, Jaeger, J et al, *Landscape Fragmentation in Europe*, Joint European Environment Agency – Swiss Federal Office for the Environment Report no.2/2011, 2011; and United Nations Environment Programme, *Global Environmental Outlook GE04 – Environment for Development*, 2007 (particularly page 259 at Box 6.30).

⁴ For more detail on brownfield, see Link's response to the consultation on the draft:
http://www.wcl.org.uk/docs/2011/Link_response_to_NPPF_consultation_171011.pdf.

On species, we need clear goals, coherent linkage with biodiversity policies and a good evidence base for understanding what is currently there and for guiding how this should be enhanced – thus giving an objective framework for judging impacts of development.

There is a need for appropriate expertise (e.g. ecologists) around protected/ Biodiversity Action Plan species to be available and applied in the context of national objectives, and also for better support from Natural England, especially where European Protected Species are affected.

5. Natural environment policies in planning

Link welcomes the inclusion of many of the policies for protecting the natural environment in the proposed draft NPPF, including green infrastructure networks (167), priority habitats and species (168) and identifying and mapping ecological networks (168) (subject to the identification and protection of Nature Improvement Areas through the planning system). We also welcome the explicit protection given to irreplaceable habitats such as ancient woodland in the NPPF, although the caveat in paragraph 169, point 4 of the draft NPPF, should be deleted to ensure meaningful protection for ancient woodland.⁵

However, we believe that these good policies will be undermined by the pro-growth tone of the document and the weakness of the presumption in favour of sustainable development. The definition of the natural environment in planning policy should be altered to be consistent with *The Natural Choice*, which defines it as including all farmland and forests (in other words all countryside), and undertakes to ‘retain protection and improvement of the natural environment as core objectives for local planning and development management’.

The planning system should not only help to protect our remaining and depleted levels of biodiversity and our finest landscapes, but also to *restore* lost biodiversity and improve neglected landscapes through net gains in biodiversity and countryside quality. As identified in *The Natural Choice*, this will require the delivery of both more and better ecological networks, and landscape scale conservation, through the planning system. The NPPF should accord specific protection to all SSSIs, and protect and recognise the value of locally designated landscape areas, such as Areas of Great Landscape Value and our 40,000 plus Local Wildlife Sites, as important wildlife refuges and as critical components of ecological networks. Nature Improvement Areas should also be identified and protected through the planning system.

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⁵ ‘planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.’
<http://www.communities.gov.uk/publications/planningandbuilding/draftframeworkconsultation>

Annex A

Principles of a good system for biodiversity offsets

1. A credit scheme is not a replacement for existing biodiversity protection and enhancement mechanisms or a substitute for avoidance or mitigation of negative impacts. It could form a significant tool within the planning system, where it sits alongside additional policy, guidance, legislation and initiatives to halt and reverse biodiversity loss.
2. Lessons must be learnt from similar schemes in other countries, particularly where there are examples of biodiversity offset schemes resulting in net biodiversity loss.
3. There should be no net loss and net gain for biodiversity in and around areas where development will occur.
4. The scheme should contain mechanisms for ensuring that the quality of new habitats is at least equivalent to the quality of habitats that are being lost. The timing of habitat replacement must take into account the need to sustain species populations impacted through habitat loss. The location of replacement projects should take into account landscape character and access for local people affected by species and habitat loss.
5. Special consideration in the scheme design will be required to take account of the increasing vulnerability of rare, threatened and declining species and habitats. Certain species and habitats must remain or become, protected outright through legislation, site protection and planning guidance from destruction as their displacement to another area or re-creation is practically unachievable.
6. Species and habitats require adaptation mechanisms in the face of climate change, including landscape-scale conservation, connectivity and site safeguard. Yet it is important to note that small-scale action, targeted in the right places is also essential for maintaining biodiversity and to ensure there are stepping stones between larger sites.
7. Any scheme must include measures to monitor 'conservation land' created or secured by the scheme. Assessment of success should be undertaken by a body independent from those responsible for delivering new habitat or managing secured habitat.
8. Finance for the scheme should be clearly ring-fenced and it should be impossible for it to be used for other initiatives, related or unrelated. The exploration of new innovative methods of securing funds for habitat management should be encouraged.
9. Any scheme should seek to contribute to national or regional conservation objectives through delivery at a local level.
10. The existing range of spatially explicit 'nature maps' and emerging information on species dispersal, habitat restoration and creation should be employed as reference material, and supplemented as necessary by thorough in situ survey.