



Nature Recovery Green Paper
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Dear Nature Recovery Green Paper Team

Defra Consultation on "Nature Recovery Green Paper: protected sites and species"

Response prepared by Sussex Nature Partnership

This document has been prepared by Sussex Nature Partnership (SxNP) in response to the Defra consultation: *Nature Recovery Green Paper: protected sites and species*. It represents the views of the Partnership but has also been developed in collaboration with local authorities across its geography.

Background

Sussex Nature Partnership (SxNP) operates across the Tier 1 local authority areas of West Sussex County Council, East Sussex County Council and Brighton and Hove City Council and covers a large area of the South Downs National Park and High Weald AONB. Supported through donations from its key partners, it brings together over 25 organisations from across the environmental, business, research and public sectors operating in Sussex¹. A core part of its work over the past year has been to engage all partners on the proposals and responsibilities relating to nature's recovery that have been emerging through new policy and legislation. In 2021 SxNP also launched a new 'Local Authority Network' to facilitate

¹ See Appendix 2 for members of the Sussex Nature Partnership

knowledge sharing and discussion between the partnership and the 13 district and borough councils within its area. A strong focus of this network in recent months has been the Environment Act and what it will mean for local authorities of all tiers across Sussex.

Structure of this Response

A response to the consultation questions posed within the Green Paper have been submitted online and are attached to this document as Appendix 1.

However, following discussion of the Green Paper with partners and local authorities in Sussex, several general comments, principles and recommendations were also identified that provide important insights into how some of the proposals within the Green Paper may play out in practice at a local level. These are set out below and where possible, examples have been included based on the experience of members/local authorities to help to illustrate the points made.

General comments relating to the ambition and analysis contained within the Green Paper are provided as initial context. Detailed comments provided in Appendix 1 then follow the structure and headings used within the Green Paper.

1. Analysis and approach

We support the government in bringing forward a Green Paper on Nature's Recovery at this time that sets out to examine the role of protected sites and species in supporting its overall ambition to halt the decline in nature and support nature's recovery. The existing system has evolved through time and was based on initial objectives that were very focused on 'protection' (rather than recovery) and it therefore makes sense to understand whether it continues to be fit for purpose or could be improved to better support evolving policy ambitions and new legislative targets for nature.

However, because the current system has been built up through time and has been designed to deliver a very important legal role, it should not be dismantled without due care and attention. Our greatest concern about this Green Paper is therefore its lack of a coherent assessment of the problems within the current system as a basis for proposals for change.

Given the vital role that our current protections for sites and species play as the 'last defence' for wildlife and habitats across England, a much more complete analysis of the problem is required. For example, in our experience, many elements of the current system do work but could be much more effective if better resourced and enforced. Great care therefore needs to be taken not to 'throw the baby out with the bathwater' in the pursuit of change - but to understand how to resource, improve and modernise the system without losing the bits that work.

We therefore urge government to present **a more complete problem statement** to support any proposed changes to the protected sites/species system to ensure that any future changes are fully scoped out for both intended and unintended consequences and that there is a clear demonstration of how changes will help to deliver high-level ambitions for nature's recovery.

Analysis of the current system should include:

- A coherent and complete assessment of the strengths/weaknesses **of the current system** - including design of the system, resources available for its implementation, monitoring and enforcement;

- Evidence for the **need for change** in order to support new government targets and policy for nature's recovery. e.g. where is the current system deficient, what functions are missing and where is change required;
- The **time and resource** implications for changing a system and the risks this could create for nature/biodiversity as valuable existing resources within Natural England are redeployed to establishing the new system;
- Analysis of the **wider pressures on nature and its relationship with people** that provide the context for the protection of sites and species. Policy and protections for nature will not be effective if this is ignored. For example, population growth, uneven distribution of population and intensification of agriculture have led to landscape scale impacts that adversely affect all wildlife (not just SPA/SACs) – e.g. recreational disturbance, nutrient and water neutrality. Nutrient and water neutrality are a specific example in the south-east. A science and evidence-based approach has led to these issues affecting planning decisions over wide areas which is unpopular with developers but is an example of how any serious attempt to achieve nature's recovery is going to have to have human resource-use issues at its core. The Green Paper is currently mute on these issues and we believe this is a missed opportunity.

We also urge government to carry out this analysis in consultation with those using and engaging with the current system at the local level. As a Nature Partnership we would be very happy to engage in such an exercise.

2. Proposed principles for change

Within the Green Paper, there are several principles which have been proposed as necessary to underpin a future system for sites/species protections.

Of these, several are very positive and we welcome these:

- A review of legislation related to protected sites would maintain current levels of protection for the network as a whole and its individual sites. However, we would like to see this as a minimum position - with opportunities taken to strengthen the protections within components of the system where this is needed and to expand the suite of protected sites from its current representative rather than comprehensive coverage.
- Ensuring that legal protections for sites/species lead to better environmental outcomes.
- A science/evidence based approach should lie at the heart of the system.

Others are included which, if applied, may also be very positive and lead to welcome changes to the overall system. However, on reading the Green Paper our view is that these must be complementary to the principles above and not used to drive change 'for their own sake'.

If this is the case, the result may be ineffective use of resources, unintended consequences and missed opportunities.

These include:

- Redesign of the system to make it understandable to wider stakeholders/the public;
- Simplification of the regulatory and legal framework;

- Removal of legalistic measures that relate specifically to administration of European sites;
- A shift in responsibility for designation of sites from officials/nature conservation bodies to Ministers - and reduction in importance of process in preference for individual judgement by officials.

For example, we support the general principle that any system of legal protections for nature should be understood by those working with it and if there are opportunities to make it more accessible to the public then this would be welcome. However, in our view those working with the system in practice (including landowners) largely understand the current system although there are some areas where tweaks here and there could improve this. A wholesale overhaul of the system which could cost a great deal of money (and time) may therefore result in very little positive change on the ground.

Rather, in our experience, what the wider public often struggles to comprehend is when 'protected sites' in their area are threatened and even destroyed by development or unsuitable land use. This is not their expectation of "legal protections" and leads to questioning about the point of such a system. Therefore, in terms of a public perception/engagement exercise, time would be much better spent on making the system more robust so that protections actually do protect nature or being more honest with the public that where there are competing policy demands between 'nature and people' - nature will often lose out.

Removing legalistic measures that relate to European sites requires much more justification and consultation. In the past decade, Government has carried out several reviews of the working of The Conservation of Habitats and Species Regulations ("the Habitats Regulations") and all have concluded that it works clearly, is fit for purpose and is not being "gold plated". Despite this, the Green Paper gives a sense of wanting to alter the legal processes that relate to these Regulations without specifying the specific problems this would address. Stakeholders working to protect these sites will not welcome a removal of important legal processes, particularly where these provide the additional level of protection that befits these important international sites and a judicial 'safety net' when all else fails.

Finally, we are wary of the proposed changes in procedure and responsibility for designation of sites/species away from nature conservation bodies to Ministers. This takes this process into a political sphere when it should be an objective/science led approach based on evidence. If, however, Ministerial involvement is limited to speeding up a designation process where this might be required, this would be welcome.

We agree that planning decisions should be based on the best possible scientific evidence and the professional judgment of expert officers, and that such evidence should not be discounted on the basis of semantic interpretation. However, we do not support proposals to strip back the role of process in designation as this is a fundamental model in democratic decision making. Whilst we are aware of frustrations caused by legal challenge to the system, we do not support the principle of isolating case officers from an approved system. This does not feel to be democratically sound.

3. Summary of comments

Specific comments on the proposals within the Green Paper are set out in the sections that follow. In summary, the Paper does bring forward some positive ideas which we welcome,

such as a new 'nature recovery' designation and statutory site improvement plans. These are addressing some obvious gaps in the current system and we would welcome more details about how these would work.

However, without a complete assessment of the existing system, the Green Paper presents a piecemeal collection of changes which lack sufficient rationale and integration. As such, our view is:

- It is a missed opportunity to provide a coherent, wide ranging and ambitious suite of proposals that could work together to deliver the type of protections for our species and sites that are necessary to underpin nature's recovery across the country.
- It risks undermining or leading to the removal of existing elements of the system that currently work and introducing drivers for change (such as simplification) which may appear positive on paper but lead to significant waste of resources for little impact in practice ('rearranging the deck chairs')
- It places undue focus on altering processes and contains ambitions to reduce legalistic approaches within the current system which are, by and large, understood by those who apply and work within the system. These should not be unpicked without good reason and without clear articulation of any consequences (both intended or unintended).
- It side-steps an opportunity to really grapple with the big issues affecting nature in England, such as agriculture, land use and planning and thus fails to identify how legal protections for sites/species can be used to really underpin an approach to nature's recovery across government departments and in the face of a multitude of pressures.

Finally, change to this well-embedded system must be proportionate in both speed and impact to the scale of change required to support nature's recovery in England. As we face a biodiversity emergency, the onus should be on swift, impactful change which must be targeted where it will make most difference - and resourced to ensure that it is effective. The ambition should be to seek much stronger protection of the nature we have and to embed meaningful protections in wider government policy (such as planning) that will complement and support this. Time and effort must not be wasted in tinkering around the edges or unpicking legal processes that mostly do what they are intended to do - only to result in years of wasted time and resources to replace these with something similar.

We would welcome further discussion and are happy to engage with further proposals for review, based on the expertise and experience of our Partners.

Yours sincerely



Kate Rice
Chair, Sussex Nature Partnership

Appendix 1 - Detailed comments

Protected sites: a new consolidated approach

Q7. What degree of reform do we need to ensure a simpler and more ecologically coherent network of terrestrial protected sites?

Q8. What degree of reform for the marine protected area network do we need to meet our biodiversity objectives and commitments?

Q9. Do you agree that there should be a single process for terrestrial designation?

Q10. Should we reform the current feature-based approach to site selection and management to also allow for more dynamic ecological processes?

Q 11. How do we promote nature recovery beyond designated protected sites?

Q12. Do you see a role for additional designations

We support the ambition to ensure that the designation system creates an ecological coherent network of protected sites and that this ambition is not expressed within the design of the current terrestrial system (unlike marine where it is a stated intention). Revision of the terrestrial system to achieve this outcome, for example by completing the network and adequately protecting the large number of valuable sites not currently included, would be a significant move in the attempt to halt the decline in nature and support its recovery. This should be the priority addressed in the document.

Simplification of the nomenclature used and the various tiers in the current hierarchy may appear attractive in terms of public perception. But we are concerned that this approach could become the ‘tail that wags the dog’ and that it could introduce huge administrative burdens on officials (and associated waste of resources) in the short term that would have little impact on the effectiveness of the system on the ground. For example, in our experience, there is little experience of the designation system being a problem. Those who apply, monitor and enforce the existing system do not believe there is a significant problem of understanding either within officials or affected stakeholders (such as landowners). In our view, therefore, the benefits of a wholesale change in nomenclature would not outweigh the risks of creating disruption to those using the system and would be a waste of resources.

If changes to nomenclature are desired in order to aid wider understanding of the system, then this should be limited to a **basic** revision of terms - but with retention of the main hierarchy of importance of sites (and related strength of protections). For example, our view is that the **existing broad hierarchy of sites (international, national, local) is well understood and intuitive**. We would **not** want to see sites of international importance lumped into the same category of nomenclature as nationally important sites, even if protections remain similar. This would create a perception of ‘levelling down’ of international sites and would decouple the name with level of importance and protection - which is part of the current system that is intuitive and logical. This clear understanding of relative importance and thus strength of protection is vital.

For similar reasons, we are therefore **not** in favour of a single nomenclature for designated sites (even with sliding scale of protections) as this would remove the current tiered naming system. Without this, it will be very difficult for people to understand the relative importance of a site and its protections, or key decision makers such as local planning authorities could misunderstand the relative importance of sites, make an error in their decision making, which subsequently leads to legal challenge.

We are interested in further information about the proposal for 'highly protected sites' and why this might be necessary. We are, however, again wary that it could lead to a 'levelling down' of remaining SAC/SPA sites which would be perceived as having less protection. Unintended negative consequences of any such renaming proposal would therefore need to be understood and avoided.

Much more important than revising the nomenclature of sites, will be to ensure that our suite of designations is **completed**. The current SSSI designation system is limited to selecting sites which are **representative** examples whereas many Local Sites exist across England which also meet the criteria for selection in terms of quality but cannot be legally protected as SSSIs due to this historical restriction. Simply designating these high-quality sites and bringing them into the legally protected framework would be an important, practical and pragmatic start to building a more coherent network of sites. It would instantly provide more coverage and would mean more connectivity between sites in many places.

- Local Sites networks provide a **comprehensive** rather than representative suite of sites.
- Local Sites provide wildlife refuges for most of the UK's fauna and flora and through their connecting and buffering qualities, they complement other site networks.
- Local Sites have a significant role to play in meeting overall national biodiversity targets.
- Local Sites represent local character and distinctiveness.
- Local Sites contribute to the quality of life and the well-being of the community, with many sites providing opportunities for research and education.

Defra, 2006. *Local Sites. Guidance on their Identification, Selection and Management*.

Despite forming an integral part of the overall ecological network of the country, Local Wildlife Sites are suffering ongoing losses to development and inappropriate land use. Protection via the planning system is **not sufficient** to prevent the on-going cumulative losses experienced at the local level across the country. Inclusion of a new protection for Local Wildlife Sites in law and/or elevation of high quality Local Sites to SSSI status should be considered to try to stem the losses from this system that continue to take place. This would help to create an ecologically coherent system of sites without too much change to the existing nomenclature as many of these sites are already identified and mapped locally.

In relation to marine sites, an opportunity should be taken to bring MCZs up to the same level of protection as SACs and SPAs.

Responsibility for the system for designations should remain with nature conservation bodies (as per the SSSI system) and should not be vested in the Minister unless this is to speed up a specific designation case. Designation should remain an objective/science led process and should not be taken into the political space where other factors could interfere with it. If

further clarification of the evidence base required for designation is needed then this could be provided. Rationale of reasons to place this responsibility with the Minister has not been provided.

We agree that there should be reform to the feature-based approach to site selection and management to allow for more dynamic ecological processes. For example, protected site management could be significantly improved by taking a 'whole site' approach.

In terms of promoting nature beyond designated sites, much more can be done to strengthen the protection of **priority habitats**. Many of these may be included in Local Nature Recovery Strategies (LNRSs) as the real foundation of nature-rich habitats outside designations. Yet they are currently poorly protected via the planning system. It is imperative that LNRSs are therefore given significant weight in revised planning policy. Decision makers must also be required to ensure that elements of nature which are intended to be 'protected' via the planning system alone, such as priority habitats, are given sufficient protection from development. This part of the system is a real weakness at present but if there was an effective system to ensure the protection and adequate management of these habitat types, this could go far to creating connectivity between designated sites and supporting nature's recovery in the wider landscape.

We welcome the emerging thinking around a '**nature recovery' designation** which could be used to protect areas of land that provide important corridors between sites, areas of strategic importance for a wider ecological network and vital refuges for species beyond designated sites. Such sites must be accompanied by agreed management plans/objectives to guide action, within the wider vision and spatial strategy set out in relevant Local Nature Recovery Strategies and protected landscape management plans. We agree that Local Nature Recovery Strategies could be an important part of the process for identifying such sites and recognising their value (existing and potential value for the wider network).

We do not have views as to how a designation would take place but agree that safeguarding all sites brought forward through LNRSs must be achieved through the planning process and urge Defra and DLUHC to work together to ensure strong safeguards are brought forward within national planning policy as soon as possible.

Finally, a huge gap in this Green Paper is the lack of **acknowledgement of the resources required** to support an effective system of site/species protections and that currently both resources and capacity within key organisations (Natural England, local government) is insufficient for the current task, let alone a more ambitious system. Budgets for ecological capacity within all relevant government organisations must be commensurate with the task and urgency of the situation.

Protected sites: site management and protection

Q13. Do you agree we should pursue the potential areas for reforms on assessments and consents?

Q14. Should action be taken to address legacy consents?

Q15. Should we move to the more outcomes-focused approach to site management?

Q16. Do you have suggestions for how regulation 9 requirements should be reformed to support delivery of England's 2030 species target or other long-term biodiversity targets and to improve our natural environment?

Q17. Do you have suggestions for how processes under Regulation 6 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 and sections 125-127 of the Marine and Coastal Access Act 2009 together could better deliver outcomes for the MPA network?

Q18. Do you have suggestions for improving the EIA scope and process for the Defra EIA regimes?

Q19. What are your views on our proposal to establish priority areas for afforestation?

We support reform to the assessment / consenting process provided this strengthens the protection of designated sites and helps to achieve positive outcomes for nature.

HRA is only part of the original Habitats Directive and relates to protection of sites from degradation. Nature recovery and the targets associated with this mean clear responsibility for positive management, enhancement and expansion of sites (and the resources to achieve these) still needs to be set out across all levels of government. The government should use the opportunity provided by this Green Paper process to set out suitable mechanisms to achieve this.

On process specifics, various commentators have pointed out that the quote about “legal obstacle course” by Lord Justice Sullivan has been taken so out of context that its meaning is entirely reversed, the Judge meant that procedural technicalities should not be used to overturn decisions taken on the basis of good evidence. That said, the opportunity to amend Regulation 63 to restore the principle of the ‘Dilly Lane’ judgement rather than the ‘People over Wind’ based approach to appropriate assessment would reduce the paperwork burden. It is critically important to retain a precautionary approach and to keep the primacy of conservation objectives, with economic or social over-rides only considered in exceptional circumstances (derogation tests), as now.

As before, we agree that a move to a more outcomes focused approach to site management would be desirable. But it is important to flag the significant increase in ecological capacity/resources this would require in order to put in place the surveying and monitoring required to understand condition of sites and to steer adaptive management (and where necessary enforcement) in order to achieve the desired outcomes.

No comments on Regulation 9 or Regulation 6 requirements.

It is our view that the EIA processes themselves are often a very useful way in which to ensure the environmental impacts of applications are understood and that mitigation measures are effectively designed. Whilst we understand that leaving the EU provides the government with an opportunity for reviewing procedures, we do not consider that fundamentally changing a system which is largely fit for purpose would be a good use of resources. EIA works well on the whole, and is generally well understood by practitioners and decision makers (e.g. planning authorities). The main issue is the resources within LPAs to examine and, if necessary, challenge the vast Environment Statements produced.

SEA, in its modified SA form, should be at the heart of plan making, but are too often considered an add-on, assessing key decisions that have already been made without much exploration of options. The problem is the nature of the examination process which

encourages SAs to be used defensively and after the fact, rather than as a means to explore options in the early options exploration phases of plans.

SEAs are often inappropriately triggered on Neighbourhood Plans, despite major issues already having been addressed through the over-arching Local Plan. This is a huge waste of time and resources and could be addressed through an amendment to the 2004 Assessment of Plan and Programmes Regulations.

We do not completely agree with the approach within the paper on afforestation. We do agree that the use of mapping/spatial data to help to indicate preferable areas for woodland creation can be useful. In Sussex we have recently prepared a woodland opportunity map to assist landowners and relevant organisations to understand where woodland creation would deliver positive benefits and where it would not be acceptable due to adverse impacts on other values. Extensive consultation with stakeholders during our process highlighted that such mapping must only be indicative and should be considered the first step in any process for bringing forward woodland creation projects. Site-based assessment and more detailed understanding of the precise characteristics of a site must **always** be carried out in order to safeguard fragile elements of the environment (e.g. species, archaeology, landscape). We therefore do not agree that any 'green-lighting' should be connected with such mapping as it will never be detailed enough to capture all the values of a proposed site.

Woodland opportunity areas should also be considered in relation to the 'bigger, more, joined' needs of other habitat types and so should evolve logically from a Local Nature Recovery Strategy process where 'competing' uses of land can be assessed and fully understood at the county scale. Making these trade-offs cannot be done in a meaningful way through a national scale woodland opportunity mapping approach.

Delivering 30 by 30

Q20. What are your views on our proposed criteria to achieving our 30 by 30 commitment?

Q21. What are your views on our proposal to reform forestry governance and strengthen protections for the Nation's Forests?

Q22. What are your views on our proposal to adjust forestry permanency requirements for certain project types?

Q23. Do you agree with the proposed changes to the UK Marine Strategy (UKMS) delivery programme, and if not, what other changes would you make to streamline the reporting of UKMS?

Q24. Do you support the approach set out to split the high-level Good Environmental Status (GES) target into individual descriptor level GES targets?

Whilst we understand the rationale for setting a target like "30 x 30", we are wary that this will enable a sense of complacency given that our existing suite of sites already amounts to 26% according to the Green Paper. We should be much less focussed on identifying what can be included to meet this target, and much more emphasis placed on improving the quality of what we already have protected, and significantly expanding protection of nature, both through designated sites and other measures. It is also important to note that the whole area of AONBs and National Parks should not automatically be included; some such sites, whilst stunning landscapes, may in fact be poor for biodiversity.

Thus our view is that whilst it is useful to have a new category of land use that can be counted towards 30 x 30, we believe the real priority is to address the other issues set out in the section above.

There may be limited circumstances where exceptions to the permanency requirements will be helpful in encouraging landowners to undertake more woodland creation; however, this needs to be considered carefully to ensure that this does not inadvertently stimulate an increase in inappropriate planting schemes with very limited benefits to biodiversity or wider interests such as cultural heritage.

In terms of 30 x 30 at sea, we welcome proposed changes to the UK Marine Strategy delivery programme to ensure that it can deliver good environmental status. However, adequate resources for monitoring and delivery will be required. The changes would help to embed the UKMS into marine management at a regional and local level. However, significant engagement with management partnerships and competent/relevant authorities would be required to ensure the UKMS is utilised effectively. For example, would the online repository be linked with the Designated Sites System and Conservation Advice packages? How would actions at a site level be fed up to the UKMS to demonstrate work towards targets? Who would collate and manage that process? There are a number of networks that could facilitate this (including the MPA Officer's Network), but resources and support would be needed to ensure active engagement in the delivery programme.

Currently, high-level GES targets mask progress but may also mask regional and site/species specific issues which may not be reflected on a national level. It should be easy to scrutinise the data behind the targets and understand where issues still lie, even if the general target is being achieved. There needs to be a consistent approach for cross-border sites and mobile species, where data may not always be readily available. Additionally, changes in species abundance or extent due to climate change and other anthropogenic factors should be acknowledged within the descriptors and targets. For example, if a species declines significantly and is no longer viable in that location, will the target continue to be unmet, or will it be updated to acknowledge this change and plans put forward to reverse or mitigate the cause (where possible)?

Protecting Species

Q25. Do you agree we should pursue the potential areas for reforms for species?

Q26. Based on your knowledge and experience please can you tick the criteria below that you think we should use to determine what level of protection a species should be given?

Q27. What proposals should we look at to improve our current licensing regime?

Q28. What proposals do you think would make our enforcement toolkit more effective at combatting wildlife offences?

Any reforms must maintain or enhance existing protections.

In particular, reforms must not reduce the level of protection of species currently provided by the Habitats Regulations. It should also take the opportunity to define 'favourable conservation status' in law.

Impact of cumulative changes to habitats which affect species, which occur at a local level on a regular basis and cannot easily be prevented (e.g. removal of hedgerow) should be dealt with in the Green Paper.

Like the proposals relating to reform of the designated sites system, the benefits of any changes must outweigh the deployment of scarce resources that this would require which could otherwise be used to support nature on the ground. There is a need for greater consistency in the licensing approach and for tighter requirements on monitoring and reporting. However, the problems appear to be more about resourcing; Natural England has been under-resourced for many years, and this has had a detrimental effect on the administration of the licensing system.

Enforcement will require resources. It is not possible to expect any public body to take on new burdens without appropriate funding and authority. Training of ALBs, Police and judiciary is required. There may be a need for existing primary legislation to be modified to allow for prosecutions for when a protected species' habitat is destroyed despite there being no evidence of dead animals.

Delivering Nature's Recovery

Q29. What are the most important functions and duties delivered by Defra group ALBs to support our long-term environmental goals?

Q30. Where are there overlaps, duplication or boundary issues between ALBs, or between ALBs and government? How could these be addressed?

Q31. What are the benefits and risks of bringing all environmental regulation into a single body?

Q32. What are the opportunities for consolidating environmental delivery functions into a single body? Which programmes and activities would this include?

Q33. Please provide your views on how more effective cost recovery for regulation would affect: a) environmental protections b) businesses.

Q34. What is the most efficient way of ensuring businesses and regulated persons pay an appropriate share of the cost of regulation

We support the proposal in the Green Paper that the core mission of nature's recovery could be better embedded within all relevant public bodies.

Yet locally, we recognise a collegial and constructive relationship between all ALBs - and with wider stakeholders such as Local Nature Partnerships. This is to be applauded and protected. We believe that all ALBs are most effective with clear/separate responsibilities but working constructively together on key ambitions such as nature's recovery. We are concerned that the existing functions and duties of current ALBs are not listed in the Green Paper to assist in the judgement of the proposals. Without a clear understanding of this, and any potential functions and duties that they could or should be doing with proper resourcing, it is not possible to assess where there are overlaps, duplication or boundary issues, or even omissions.

However, there could be more alignment and communication on areas of detail to ensure that there is no confusion for wider stakeholders.

Despite this, we do not agree with the proposal to consolidate bodies into a single ALB. Again, this would be a costly and distracting process which would require the re-deployment of significant resources away from more urgent activity such as nature recovery. We are concerned that the priority seems to be more around financial savings than efficiency and effectiveness. We believe that this section of the consultation must be supported by independently gathered evidence. Whilst there are potential benefits to the proposal (e.g. the potential for more collaboration, expertise and skills sharing, streamlining of services, and consistent advice/guidance), we think there are significant risks. Silo working and a lack of communication would still occur, and may well increase, due to the size of the organisation and the breadth of functions, regional and local knowledge within existing organisations could be lost due to staffing changes, and there is an enormous risk of confusion and chaos for many years, with departments competing for resources and users not knowing where to go for advice and support.

The Defra group of ALBs would appear to be good value for money and represent a very small percentage of the overall central government burden. The role of NE, EA and FC locally is imperative to preventing the decline in nature and supporting nature's recovery. We urge government to adequately resource these bodies and to safeguard their independence (and the evidence-based approach to their responsibilities).

There should also be greater efforts within government to foster a greater degree of collaboration and communication both within and between organisations, such as between NE, the MMO and the EA; overlaps are usually only 'apparent' and not real as the roles and responsibilities have largely been ironed out over time. What is now needed is a method to increase lateral communication between silos.

All public bodies should be able to effectively recover costs for licensing and regulatory activity in support of commercial activities. Consistency and clarity of how these are set and applied is critical to those businesses that will need to meet those costs. Consideration should also be given to exception rates where the activity is primarily to achieve biodiversity outcomes that are being sought and the applicant is not a commercial business.

Systems would need to be in place to ensure that funding was directed towards management 'on the ground' directly related to the regulation scheme, and not built into a competitive grant fund. This could be facilitated and supported by coastal and MPA partnerships.

We support the principle of the polluter pays – however, fees require monitoring.

Financing Nature's Recovery

Q35. What mechanisms should government explore to incentivise the private sector to shift towards nature-positive operations and investment?

Q36. What level of regulation is needed to incentivise private investment in nature while ensuring additionality and environmental integrity?

Q37. What financial impact do you think the proposals set out in this green paper would have either on business (For example, landowners) or government?

Government could do much to help to clarify the 'landscape' for private investment in nature-based solutions by better supporting project developers (both those in the 'demand' and 'supply' side) in bringing forward investable projects. This includes funding research

required to create the metrics/codes that can be used to measure impact (and thus return on investment), and facilitation of a better understanding of how to legally and financially structure the projects in the long term. The skills required to create the habitats largely lie in the eNGO sector, yet many in this space lack the financial, investment and legal expertise to develop projects. Skills development is thus a real requirement in this space. Many potential actors in this area are also spending time and resources working on the same problems. Government could play a positive role in drawing together and sharing learning.

Other potential mechanisms include tax relief for wildlife sites – public money for public goods (where sites are publicly accessible).

For existing development, incentivisation should not mean deregulation, and monitoring will be required. To make a meaningful contribution to nature's recovery, monitoring should be long term, at least 20 years as for biodiversity net gain, but it is unclear how this would be resourced and where the responsibility would sit, e.g. with the local planning authority, eNGO or NE. We do not think that more lenient penalties should be applied but rather these should be above or additional to existing; the inference is that reduced penalties are being considered to make investment more attractive to landowners.

Requirements of the private sector to engage with nature-positive operations should be built into planning and licensing agreements. These should be developed with local environmental partnerships to reduce the risk of duplication and provide resources where needed. Industry should be encouraged to upskill their staff and develop more environmental knowledge and awareness through government grants and schemes, helping to share the importance of a healthy environment to society. In turn, this will foster a sense of ownership within the private sector and identify opportunities to engage in local or regional initiatives.

Regulation of markets will be important to provide confidence and credibility for both investors and landowners. The recent BNG consultation paper, for example, mentioned a new market for BNG credits but provided no analysis of how such a market might need to be regulated. Markets for nature-based solutions are emerging but with an absence of any government presence and the consequences of this should be better understood (and government action taken if necessary to avoid unintended consequences). At the very least, regulation should seek to ensure that no harm is done through private investment in nature related projects (right habitat in the right place), that there is a required level of consultation with relevant stakeholders, and that projects/investments coming forward make a positive contribution to overall strategic ambitions for an area such as those set out in a Local Nature Recovery Strategy.

Overall, we are concerned that the proposals set out in the Green Paper could have significant negative financial impacts on local planning authorities. There will be a need for additional specialist ecological advice, which is already known to be significantly under-resourced, to manage the change-over and deal with the inevitable legal challenges through Development Management.

Appendix 2: Sussex Nature Partnership members

The following organisations form the Sussex Nature Partnership



As well as the Tier 1 authorities and the National Park Authority, all 11 district and borough councils in East and West Sussex participate in the 'Local Authority Network' established by Sussex Nature Partnership in 2021:

- Adur and Worthing Councils
- Arun District Council
- Chichester District Council
- Crawley Borough Council
- Eastbourne Borough Council
- Hastings Borough Council
- Horsham District Council
- Lewes District Council
- Mid-Sussex District Council
- Rother District Council
- Wealden District Council