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To:

Nature Recovery Green Paper Team

Defra

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**Consultation on Nature Recovery Green Paper**

This response is submitted on behalf of ADEPT by David Dale, Policy Officer, email address [daviddale2401@gmail.com](mailto:daviddale2401@gmail.com) mobile 07772 513812. It is not confidential.

ADEPT is a professional membership association representing Place Directors from county, unitary and combined authorities across England, along with Local Enterprise Partnerships (LEPs), sub-national transport boards and corporate partners drawn from key service sectors throughout England.

**General comments**

We welcome the opportunity to comment on the Green Paper, and we value our ongoing informal discussions with Defra officials on this and other matters relating to the local delivery of the ambitions of the 25 Year Environment Plan and the requirements of the Environment Act 2021. We strongly support the ambitions of the Plan including that of halting and then reversing the degradation of nature. As the Secretary of State says in his foreword to the Green Paper, the UK is one of the most nature depleted countries in the world. The great loss of habitats, wildlife and biodiversity over the last 50 years or so has not been halted by existing law and regulation. Policy and markets have failed nature.

We have two general concerns about the Green Paper. One is the lack of analysis and detail which makes it difficult to answer some of the consultation questions without further information, and this is mentioned at times below. The current system of regulation might be improved but it also contains many important protections that must not be lost in the process of any reform. There is a lot that is good and works well in the current system, this needs to be retained and built upon. There is merit in considering having an independent, expert review of the system of protected sites and species in the same way that the Glover Review did for protected landscapes.

The second and more fundamental concern is the absence of a robust policy framework and effective leadership. It is a year since government consulted on its draft environmental principles policy statement, and this is still to be finalised. As we said in our consultation response then, the draft statement was extremely disappointing, not least because the principles themselves were inadequate but also that they were not to be legally binding.

The government claims that the Environment Act 2021 is world-leading and will deliver the most ambitious environmental programme of any country on earth. This claim does not align with the refusal to adopt the principle of non-regression whereby the UK would maintain all current standards and commit to matching or bettering future EU and international standards. This should be the starting point for the Green Paper.

Also absent is any reference to the Dasgupta Review of the economics of biodiversity, commissioned by the Treasury. Again, it is more than a year since this was published and brought together a wealth of scientific evidence to show how policy, institutions and markets have failed to protect or restore nature. It could reasonably be expected that the Green Paper would set out the government’s proposed response, with reference to the Dasgupta analysis and recommendations.

As in other recent consultations, we would draw your attention to the challenges facing councils in terms of the resources, skills and capacity to deliver existing environmental and planning functions, and the additional duties under the Environment Act 2021. Councils have been under huge financial and staffing pressures in recent years. They face skills shortages in key areas including ecology: many councils no longer have in-house ecological expertise, and where they do, it is often too little.

It is vital that Defra continues to work with the local government sector to make a full assessment of the resourcing requirements of the Environment Act – and any further changes that may in due course follow from the Nature Green Paper – and to make sure that these are fully funded. It requires sustained investment in the training and development of the professional staff, and in the ability of councils to attract and retain them.

More generally, it also requires alignment of key government policies so that proposals for protected sites and species are joined up with other requirements and policies, for example agricultural support, Local Nature Recovery Strategies (LNRS), mandatory Biodiversity Net Gain (BNG), and changes to protected landscapes. In particular, there should be a clear demonstration of how any changes to the current system of protected sites and species will help achieve the proposed statutory biodiversity targets for species abundance and wildlife-rich habitats.

**Consultation questions**

**Protected sites: a new consolidated approach**

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

Option 1 or 2. We support the proposal for some rationalisation and reform of the present system but there should be further consideration of the pros and cons of ‘consolidation’ versus ‘streamlining’, and precisely what these might entail. In principle it would be beneficial to clarify and simplify site designations and processes, this would help stakeholders and members of the public to better understand the system. However, as noted above, the current system contains many important protections that must not be lost in the process of any reform. There is a lot that is good and works well in the current system, this needs to be retained and built upon. Some of our members say that complexity is not the main issue at present – implementation (including skills and capacity) and commitment (including funding) to deliver are bigger challenges.

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

Option 1 or 2. As with question 7 above, we support the proposal for some rationalisation and reform of the present system but there should be further consideration of the pros and cons of ‘consolidation’ versus ‘streamlining’, and precisely what these might entail. In principle it would be beneficial to clarify and simplify marine designations and processes, this would help stakeholders and members of the public to better understand the system. The same cautions apply – not to lose any of the important protections from the current system, but retain and build on them.

As far as possible there should be consistency between land and marine designations and management. Marine protection should have equal status. Where the land and sea meet at the coast, and particularly the inter-tidal zone, is particularly complex and important. We need a clear framework and funding for councils to lead and support coastal and marine partnerships. Some of our members have great experience in this and we would refer you to their responses for more detail.

***9.*** *Do you agree that there should be a single process for terrestrial designation? Should decisions be vested in the appropriate authority [ministers] on the advice of its nature conservation bodies?*

Yes. There is a need to be consistent in the identification and designation of sites, and transparent about the decision-making process. There needs to be a clear process for identifying, assessing and designating sites against published criteria. While it is right that Ministers should have advice and recommendations from Defra’s nature conservation bodies, they should also have due regard for the views of the relevant local authorities and partnerships.

***10.*** *Should we reform the current feature-based approach to site selection and management to also allow for more dynamic ecological processes? We would be particularly interested in your views of how our sites can be made more resilient to climate and other natural changes and can encompass wider purposes such as carbon sequestration.*

Yes for both terrestrial and marine sites, but without undermining the importance of existing features and ecological functions and without removing any existing designations. A feature-based approach is still needed to protect the best remnant habitats but it is no longer sufficient. Given wider environmental changes and the development of a nature recovery network, we would support a more dynamic approach which looks at potential features and functions as well. This would include helping to tackle climate change through carbon storage and nature-based adaptation measures.

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

This is where policy coherence is particularly important. The various elements – agricultural support, LNRSs, and BNG – need to be aligned to promote nature recovery locally and regionally. For example, LNRSs should have formal weight in the planning system so that development applications can be considered not just in relation to site-specific habitat creation and improvement but to the strategic nature protection and recovery needs of the wider area.

It is also important that we promote nature recovery in the sense of raising public awareness and commitment. Many councils have declared both a climate and an ecological emergency and are developing local plans to address them. The role of voluntary organisations such as Wildlife Trusts is essential in raising public awareness and encouraging local action. We welcome the first indications from government in the recent Department for Education Sustainability and Climate Strategy that schools will be required to offer more natural history education and to consider how best to use their own assets and estates to contribute to nature recovery.

***12.*** *Do you see a potential role for additional designations?*

Yes. There is potential for new mechanisms for identifying and protecting sites that are in the process of moving towards nature recovery that may not yet meet traditional criteria for the presence of particular habitats and species (see comments under question 10 above). There should be clear criteria for doing this as there is a danger that the desire to achieve 30 by 30 will lead to the inclusion of sites that are not in fact moving towards nature recovery.

**Protected sites: site management and protection**

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

Yes, it is right that the options identified by the working group should be explored. Our members report that whilst things are getting better as experience with Habitat Regulations Assessment (HRA) processes has grown, there is still room for improvement. The process for assessments and consents should be streamlined and clarified, particularly to support nature recovery and restoration initiatives. Again, the principle should be to retain the positive elements of the current process and reform those elements that are found to be less helpful.

In particular, the legal precedents and management activities established through the current HRA process should not be lost through this reform. The precedents set underpin all current management and are key to upholding effective conservation and protection of designations.

***14.*** *Should action be taken to address legacy consents?*

Yes, we support the principle that legacy consents should be addressed where they are no longer helpful in the protection and management of sites. We would like to see further analysis of the issues here as it is not clear what the specific problems are with legacy consents.

***15.*** *Should we move to this more outcomes-focused approach to site management?*

Yes, but building on Site Improvement Plans (SIPS) to offer a holistic site outcome plan. We would like to see further analysis of why the uptake of SIPs has been limited, and why they were often developed without any resources to action them. SIPs should be properly resourced and developed in collaboration with existing partnerships and management plans. As such, SIPs be a shared tool to support designations in reaching their conservation objectives and in responding to the impact of climate change that will further affect habitats and species in future.

***16.*** *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?*

No specific suggestions, but we support the principle that secondary legislation under the Environment Act should ensure that public bodies continue to have equal or greater obligations than before to contribute towards achieving biodiversity targets.

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

No comment.

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

No comment.

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

If the Forestry Commission is to undertake a strategic assessment which will in effect zone some areas as low risk and therefore suitable for afforestation projects, it will be necessary to ensure that any such proposals are consistent with LNRSs. Woodland creation should not be at the expense of protecting nature outside of protected sites, and should be aligned with the wider local strategy.

**Delivering 30 by 30**

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

We are concerned that different interpretations of ‘protected’ will lead to contested views about if and when 30 by 30 has been achieved. This may enable misleading claims to be made that will confuse the public about the true extent of nature recovery and improved biodiversity. For example, the Green Paper states that 28% of the UK’s land is currently designated as a protected area, but the supporting data from the Joint Nature Conservation Committee (JNCC) shows that this is just 10.6% once National Parks and Areas of Outstanding Natural Beauty (AONBs) are excluded.

The Green Paper recognises that National Parks and AONBs “cannot be said to count towards 30 by 30 at this time”. As we have said in our submission to the government’s response to the Glover Review, the current statutory purpose of the protected landscapes to ‘conserve and enhance’ nature is not strong enough, and we support the proposal to amend that purpose to include a requirement to drive nature recovery and increase biodiversity. At present, the protected landscapes should not be counted towards 30 by 30, and even if their statutory purpose is amended to include nature recovery and increasing biodiversity then their whole areas should not automatically be counted.

We support the proposed criteria of purpose, protection and outcomes. Effective management of the protected areas, and rigorous measurement and monitoring will be required if improved outcomes are to be achieved. We suggest that there could be a further criterion of connectivity so that an area is assessed not just within its own boundaries but in a wider context that considers its contribution to the wider nature recovery network and the connectivity between areas.

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

We support the proposal to introduce additional powers and statutory duties to protect nature and improve biodiversity.

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

No comment.

**30 by 30: UK Marine Strategy**

*23. 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?*

Yes, we support the broad aims of improving targets, monitoring and accountability. Please also see our comments under question 8 above that as far as possible there should be consistency between land and marine designations and management, with marine protection having equal status and particular emphasis given to the inter-tidal zone.

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

No comment.

**Protecting Species**

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

Yes, it is right to review protections, licensing, enforcement and penalties to ensure they are simple and up to date. There should be no reduction in existing protections for any species such as bats, dormice and great crested newts.

***26.*** *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?*

*• Threat of local or national extinction*

*• Welfare of wild animals*

*• Controls in trade*

*• Importance to the ecosystem (a species that has a disproportionate beneficial effect on an ecosystem and if they are not present the ecosystem will be in danger of collapse).*

*• Promoting recovery (a species with a low or declining population, which may not yet have a threatened conservation status, but could be protected to support recovery and increased distribution).*

*• Importance to genetic biodiversity (endemic species or sub-species within England that are important for the wider genetic diversity of the species).*

*• Management requirements (a species where management is required for public health, to protect agriculture, commercial interests and to protect habitats)*

*• Socio-economic importance (a species that could be protected to benefit people and communities, for example, to promote tourism)*

*• To support efforts to reintroduce species or rewild habitats.*

These all seem relevant criteria. We suggest additional criteria to reflect the importance of species within both a local context (alignment with LNRSs) and internationally.

***27.*** *What proposals should we look at to improve our current licensing regime?   When you respond please state what you think is not working under the current licensing regime, which principles you think should be brought out in any new regime. Please highlight your experience, as well as making us aware of any evidence you can share that supports your view.*

Some of our members report that the current system is often too slow, that there is a need for greater consistency in the licensing approach and for tighter requirements on monitoring and reporting. The key improvement needed is to ensure that Natural England is adequately resourced to process applications much more quickly than the 13 weeks or more that it currently takes. A more customer-focused approach is needed so that applicants and councils can liaise directly with relevant Natural England staff to raise queries and seek advice.

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

We agree that enforcement is outdated and inconsistent. The main drawback with the current system is the way in which the police or inspectors require evidence that a specific wildlife crime has been committed – usually requiring the presentation of a dead or injured body. This is much easier for some species and in some circumstances than in others. Evidence of the destruction of habitats is easier to obtain and should be sufficient in some circumstances to prove that wildlife crime has been committed.

**Delivering for nature through public bodies**

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

We agree that Defra’s Arm’s length Bodies (ALBs) provide vital services to communities, businesses and the environment, and recognise that it is appropriate to review the operating model now that the UK has left the EU. This is an important and wide review that should be undertaken with due diligence and consideration – again, perhaps like the Glover Review of protected landscapes – rather than be tacked on to this current consultation.

We would not support a hasty and potentially ill-considered move towards reducing the number of regulatory bodies – or even just a single one. The main issue in relation to the effectiveness of the ALBs in delivering environmental protection, nature recovery and biodiversity improvement is not the overall operating model but the fact that the organisations do not appear to be sufficiently well resourced to deliver their functions in a timely and effective manner. We work with many experienced and committed staff at the Environment Agency, Natural England and other ALBs. We are aware of continuing media reports that insufficient resources and staffing pressures on them are affecting morale. With labour market challenges, and the need for greater investment in green skills and jobs, the ALBs must be able to recruit and retain the best staff to support nature recovery.

The basis for decisions on the future structure of the ALBs should be clear and transparent evidence of what is working and what is not. Proposals for change should be able to demonstrate the improved outcomes for nature that would be achieved.

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

See comments under question 29 above.

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

See comments under question 29 above.

**Cost recovery**

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

No specific comments but we support the principle that regulated persons (‘polluters’) should pay the full cost of regulation including monitoring and enforcement. This revenue should be ring-fenced for environmental protection and improvement rather than used for other public expenditure.

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

No additional comments.

**Financing nature recovery**

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

We recognise the need for private investment in nature recovery. We support the principle that where public money is required it should be to incentivise landowners and private investors to deliver public goods. We anticipate that the implementation of LNRSs and BNG will incentivise the development of more projects for investment. Tax and fiscal incentives should be introduced.

Government should develop a private investment in nature strategy to accelerate and regulate this. In addition to a clear policy framework, there should be a governance framework to set standards and regulate markets. There should be practical support for the development of business models for investing in nature at scale and securing private funding. This should include investing in urban environments to support nature recovery: access to green space and nature is not just an environmental issue but a matter of social justice and tackling health inequality. Equitable access to nature should be a key part of the Levelling Up agenda but received disappointingly little attention in the recent White Paper.

In local places, we will use the duties and opportunities presented by the Environment Act 2021 to support councils to develop and deliver robust LNRSs and BNG policies. We will support councils to make best use of their natural assets to develop nature-based solutions for adaptation such as flood risk management. We will support them to manage green spaces and highways verges to promote biodiversity as well as to reduce emissions and capture carbon.

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

Effective monitoring to ensure that stated outcomes are being delivered.

*What else should government be doing to facilitate the development of a market framework that provides investors, farmers and land managers, regulators and the public with confidence in the quality of privately financed nature projects?*

Investment in training for green skills and jobs to ensure that there are sufficient qualified professionals and operatives to design and deliver projects to high standards. See also our comments under question 35 above.

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

No additional comments.