



Built Environment Committee

Corrected oral evidence: The impact of environmental regulations on development

Tuesday 11 July 2023

10.45 am

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Members present: Lord Moylan (The Chair); Lord Berkeley; Lord Best; Lord Carrington of Fulham; Baroness Cohen of Pimlico; Baroness Eaton; Lord Faulkner of Worcester; Lord Greenhalgh; Lord Mawson; Lord Russell of Liverpool; Baroness Thornhill; Baroness Warwick of Undercliffe.

Evidence Session No. 18

Heard in Public

Questions 192 - 213

Witnesses

[I](#): Rachel Maclean MP, Minister of State (Housing and Planning), Department for Levelling Up, Housing and Communities; Jenny Preece, Deputy Director, Planning Infrastructure, Department for Levelling Up, Housing and Communities; Trudy Harrison MP, Minister for Natural Environment and Land Use, Department for Environment, Food & Rural Affairs; Rachel Fisher, Deputy Director for Land Use Policy, Department for Environment Food and Rural Affairs.

Examination of witnesses

Rachel Maclean, Jenny Preece, Trudy Harrison and Rachel Fisher.

Q192 The Chair: Welcome to this evidence session of the Built Environment Committee as part of our inquiry into the impact of environmental regulations on development. Our witnesses today are Rachel Maclean, Minister for Housing and Planning, and Trudy Harrison MP, Minister for the Natural Environment, at DLUHC. They are accompanied by Jenny Preece, Minister for Natural Environment and Land Use, and Rachel Fisher, deputy director for land use policy, at Defra.

We will ask you a series of questions, some directly to you and others to the panel. Otherwise, it is your choice who answers. We will not dictate that to you. With four witnesses, the answers can get very long. We have quite a lot of questions to get through, so we are asking Members to be brisk in asking their questions, and we would be grateful if witnesses could be brisk in their responses. Everything is being recorded and transcribed, so there should be no reason, unless we are being very dense, for repetition of something that has been said already earlier in the witness session.

My name is Lord Moylan. I chair the committee, and I will introduce other members of the committee as questions go round. I myself have the first question, which is aimed at Trudy Harrison. The Government have committed to ambitious environmental targets, including 30 by 30 and reducing excess nutrient pollution by 50%. Will you achieve these by 2030?

Trudy Harrison: We certainly do not set targets with the intention of not achieving them, as you would expect me to say. We are building on the Environment Act, the 25-year environment plan and, more recently, the environmental improvement plan, which I am very proud to show off at every opportunity. It is 262 pages long, covering 10 goals, and was published on 31 January. The document details how we will halt the decline of nature and species. We will do that through a multitude of different ways; over 600 actions are detailed in the plan. Fundamentally, it is about providing clean water, better-quality soil, clean air and increasing habitat. Those are the fundamentals as to how we will achieve all our targets, including the ones that you have just referenced.

Q193 The Chair: We have heard evidence that the environmental action plan and the water improvement plan both require implementation plans that have not yet been published before they can be put into effect. When are we going to see those implementation plans? How are they going to manage the difficult trade-offs that will be involved between different land users?

Trudy Harrison: You speak of a particular passion of mine, which is programme management. I have required critical paths, delivery plans, for all 10 goals. That is why I know there are over 600 actions: because I have asked for every single one to be mapped out. Then we have to understand the interoperables of critical and how the different tasks

relate to each other, not just in the environmental improvement plan but in the overall in the other plans that we have in Defra for the Government's greening commitments, biodiversity more specifically or, in the case of climate change, the national adaptation plan, for example. That is what we are working up at the moment. We have external support as well.

Publishing the implementation plans is essential. Goal 10 is absolutely about bringing society along with us. It is essential that we can communicate to everybody what needs to be done and what part different people and organisations can play. Some of those are legal targets and some are moral ambitions. Regardless of that, we are focused on each and every one and on having a well thought-through, methodical approach that is smart, specific, measurable, achievable, resourced and time-bound.

The Chair: And the date for the publication of the implementation plans?

Trudy Harrison: I am not aware that we have committed to a date to publish any implementation plans. The priority for me is that we actually do the work.

The Chair: Yes, but when will the implementation plans be ready, whether they are published or not? In other words, when can implementation start? You might not give me a date, but is it this side of the Summer Recess, in the autumn or in 2024?

Trudy Harrison: In order to be able to have confidence in setting the 38 legal targets in particular, we have already done a large proportion of the work. However, mapping out all the 640 actions in the environmental improvement plan clearly necessitates other government departments being involved as well, and that is the stage of work that we are at the moment.

The Chair: But we do not have a date.

Trudy Harrison: No.

The Chair: You have no idea whether it will be this year or next.

Trudy Harrison: I very much expect it to be this year.

The Chair: We very much expect it to be this year.

Q194 **Baroness Warwick of Undercliffe:** I wonder if I could follow that up, in that case. I am interested in housebuilding. What account have you taken, in the very detailed planning process that you are going through, of the Government's other policy priorities, including those of other departments, including housing delivery, in committing to the environmental targets?

Trudy Harrison: This is an area that we need to do more on, if I am absolutely honest, and Rachel Maclean and I will be working closely on that. To take nutrient neutrality as an example, I took that role on only

last week. In other areas that I am responsible for—for example, the national adaptation plan—we have 61 risks designated by the Climate Change Committee, and it has been vital that we work with other government departments and understand their strategies, plans and legal targets in order to achieve the endgame. That is what is needed here when it comes to some of the blockages that we are all experiencing in our communities as constituency MPs and as Government Ministers. That is definitely something that we are working on. I cannot say that it has worked well in the past, which is part of the reason why we are in this situation, but it is what we need to do.

Baroness Warwick of Undercliffe: What are the specific barriers that have made you think that you need to do a lot more?

Trudy Harrison: So far, it is probably more from a constituency MP's perspective. A large proportion of the 27 catchment sensitive areas is in Cumbria. I represent the Copeland constituency in west Cumbria. I recognise that what would be more helpful is less of the dark arts and grey areas and more clear information available on government websites and in other places to avoid the more spurious information perhaps being taken into account.

It would also be helpful to make sure that we are clear with planning authorities and provide information from everybody from ecologists through to landscape architects, applicants and local communities so that they know where the catchment sensitive areas are, what type of mitigation would need to be put in place, the extent of the problem they have to deal with, and how they can be facilitated and eased to make partnerships with local ENGOs perhaps to purchase land or create wetlands, for example—nature-based solutions. That is what we need to do more of.

We have a number of things across Defra that will help. Local nature recovery strategies across 48 local authority areas, the upper-tier areas, will absolutely help, the ELMS programme that we have for farmers and the plan for water will all help. It is a multifaceted, multipronged approach.

The Chair: Rachel Maclean, you must find it very frustrating that 14% of England's land area—that is, the 27 catchment areas—is effectively under a moratorium with no end in sight, from Natural England reporting to Defra. No housebuilding is possible and very limited development is possible in practice, and your target of 300,000 homes per annum seems to have been abandoned, in effect.

Rachel Maclean: The first thing I want to say is that we have not abandoned that target. That is still a clear government target and we are absolutely committed to doing it. It is vital that we do so; it is a national priority, and the only way that we are going to fix all the problems in our housing market is by continuing to drive forward supply. The two things are not mutually exclusive.

However, yes, if I am honest, I find it frustrating. There are good reasons why there are legal frameworks that we are part of. Nevertheless, coming to this from the point of view of the housebuilder, either large or small, clearly you are facing a huge number of economic headwinds across your whole business, of which this is just yet another one from their perspective. I speak to housebuilders all the time, and I know the significant impact that some of this has had particularly on SME builders.

Lord Berkeley: What are you going to do about it?

Rachel Maclean: I am very happy to answer that question, Lord Berkeley. There is a lot of work going on to address it. The Natural England guidance was issued in March 2022, and since then we have been working with colleagues in Defra and with Natural England to try to understand what this means, map out the catchments affected, work with local authorities and figure out what they need.

There are two concrete schemes that I can talk about in more detail if you would like. One is Natural England's mitigation credit scheme, which it is making available and which is already unlocking some development in the Tees Valley; 1,461 homes have been unlocked with that scheme, and there is more to come online. The Chancellor made funding available in the Spring Budget for DLUHC to have our own credit scheme, which we will be rolling out very soon to enable them to do some of the things that Trudy has just been talking about, so that they can offset some of these nutrients and get on with building.

So there is work going on. It is not the case that we are not doing anything. Obviously we would like to do a lot more, but there are very difficult legal and financial challenges that we have to work through as a Government as a whole.

The Chair: But the Dutch nitrogen scheme was five years ago, in 2018. Have you only just now come across this problem?

Rachel Maclean: I have only been the Minister since early this year, so I cannot really discuss what the Government were doing five years ago. My understanding is that when the Dutch judgment was first made, it was on a much smaller scale and there was work going on with planning authorities, many of which have put in place mitigations to deal with that original judgment. Obviously the nutrient neutrality guidance issued in 2022 was much more extensive and affected many more local authorities—14% of England's land area—so it required a different approach, which is why we put in place the additional schemes that I have just talked about and why there is active work going on across government to do more and to go a lot further, because even the schemes that we have at the moment will not fix all the problems.

Q195 **Baroness Warwick of Undercliffe:** Trudy Harrison, you were very confident that you would get to 2030. Rachel, could you tell us whether you have the same confidence that you will still maintain your 300,000 target, given all the problems that you have identified and the fact that

they are likely to increase?

Rachel Maclean: It is absolutely our intention to do everything we can. Some of the levers are not within my personal gift but are to do with Treasury funding, which is why we are having discussions across the piece.

One thing I did not mention in response to Lord Berkeley is that we have already legislated in the levelling-up Bill for upgrades to wastewater treatment facilities, which will provide certainty for those catchments to treat the water in those areas. That will not be onstream until 2030, but it is quite a significant step. Still, there is a live issue at the moment about where we are and 2030, which is what we are discussing inside government at the moment.

Q196 **The Chair:** I would like to ask a question before we move on to the next topic. You referred to the Tyne Tees mitigation scheme put in place by Natural England. That is only one of 27 catchment areas and is available only for development taking place in the Tyne Tees area, so if you are Somerset you cannot use it. That leaves 26. What is your deadline for implementing those 26?

Rachel Maclean: The other ones would have been able to bid into our own DLUHC scheme, which I have just talked about. We have already spoken to all local authorities affected, and the majority of affected LAs have submitted evidence to the department, to Jenny and her team. We are looking at that now and we should be able to distribute those bids very soon. We hope to be able to do that in the summer.

Jenny Preece: That is right, yes.

The Chair: So the Natural England one in Tyne Tees is a one-off, so to speak.

Rachel Maclean: There is a second round, but my understanding is that it will be relatively small and will not be enough, as you rightly say, to fix all the issues across all the local authorities.

Q197 **Baroness Eaton:** We have heard of housebuilders buying working farms and closing them down in order to meet the nutrient neutrality requirements. Surely growing our own food is a very necessary part of what we should be doing. Did you anticipate that these farms would be closed down? What lessons, if any, have you learned from the nitrogen strategy in the Netherlands?

The Chair: To add context to that, we have heard evidence that roughly a hectare of arable farmland buys you six houses, so to speak, so it is a lot of land. It would be different if it were a pig farm or a chicken farm, but that is an indication of the kind of scale that we are talking about.

Trudy Harrison: I think what Baroness Eaton set out is part of the challenge of how we use land. I am also responsible for the land use framework, which we will be publishing later this year. That is part of the

wider question of how we use the relatively small island that we all live on—30 million hectares, 70% of which is farmed.

We have a red line of maintaining our current self-sufficiency in food, which is around 61%. We want to use land in the most efficient way. For example, a wetland would be a much more land-efficient way of mitigating the impacts of nutrient pollution. That is exactly why I want to focus on providing helpful scientific information in an accessible way, so that when developers are trying to understand the conundrum of how they can possibly mitigate this, they have information that their teams can use to make those partnerships. I suspect that, when it comes to land use, arable land is not the most efficient way to mitigate the impacts, and that is what we need to focus on, in my view.

Baroness Eaton: Yes, but what have you seen what has happened in the Netherlands, and are you learning anything from that?

Trudy Harrison: We certainly are. I was asking the team this morning about the Netherlands, because that is obviously where it all started in 2018. We have a different approach with our environmental improvement plan. It is multifaceted. The teams and Rachel Fisher can probably speak far more eloquently on this, given the length of time I have been involved in Defra on nutrient neutrality specifically, to explain how discussions with counterparts in the Netherlands have been happening. That would be really helpful. On learning lessons from other countries, yes, we absolutely need to do that.

The Chair: I am happy to bring Rachel in. This is also a political question. Part of the reason why the Dutch Government have fallen is over this issue. It is a big political question. Have you learned the political lessons? How are you going to manage the trade-offs?

Trudy Harrison: We are learning this through the transition from the common agricultural policy—under which, as I am sure you are all aware, farmers were paid through the basic payment scheme—to the ELMS, countryside stewardship, the sustainable farming incentive and landscape recovery. Those schemes will be expanded in future but are available now to farmers, and we are seeing an increased take-up of those. We recognise that food production is vital and is farmers' first priority, but it must be done in a way that does not harm the environment. That is the balance that we are trying to strike with ELMS.

Baroness Eaton: What pressure can you put on housebuilders to stop them at the moment? You said that you are going to give them more scientific information, but is there any method by which you can stop them buying working farms to the extent that they are doing?

Trudy Harrison: I do not believe we have anything in place to prevent any private individual from buying a farm and changing its purpose from food production to ecosystem services. That is certainly what we are encouraging, but we do not want to see land taken out of food production that results in an overall reduction in our food self-sufficiency.

The Chair: Do you have no mechanism for maintaining the 61% figure?

Trudy Harrison: I will defer to my colleague.

Rachel Maclean: The mechanism here would be the National Planning Policy Framework. If it is a planning-related decision, the planning authority will have to balance that. They have to make those very difficult and very localised decisions. In this instance, yes, they will grant planning permission for a developer to buy a farm for the purpose that you mention, or to build houses on it, or they will not. So, yes, there is a planning regime there to do that.

The Chair: You do not need planning permission to buy a farm or to stop operating it.

Rachel Maclean: No, but you would need planning permission to build on it or to do other things.

The Chair: They are not building on it. They are building in one place and buying a farm up in another and closing it down. You do not need planning permission. I have a former planning inspector sitting next to me, but I knew this anyway.

Rachel Maclean: I accept what you are saying. If there is a change of use or anything significant or building of any sort, it would be caught.

The Chair: But this is just closing it down.

Rachel Maclean: I am very happy to look at individual scenarios, and if there is a policy response we will learn from it. I would observe that, in the Netherlands, there is an awful lot of political disturbance, which goes to show how salient this issue is and how much people care about land use, farmers and all these competing pressures.

Q198 **Lord Carrington of Fulham:** We have had the Environment Agency and Natural England in front of us. We have put pretty much the same questions to them that we have been putting to you. It is quite clear that things like biodiversity and all the rest of the green agenda, which we are all in favour of, can be done only if people stop polluting. That does not principally mean housebuilders, because they produce very little pollution. It principally means the water companies.

The attitude of both the Environment Agency and Natural England to taking action on the water companies was best described as long term. Minister of State, you mentioned 2030 as being when we might build some new sewage plants under the Bill that is coming before us today and which will go back to you heavily amended, I fear, because these things do.

What on earth is anybody doing to speed up the obvious things we need to do to make our environment better, particularly our water quality, which is critical? Essentially, this means agriculture, making the water companies do what they should, and regulation. It means government action, but it does not mean government action by 2030; it means

government action this day, as Winston Churchill would have said. It means doing something before the general election, which is probably 12 or 18 months away—in which case, everything will be up in the air, and we will spend six months completely petrified as to any government action.

What on earth is going on? Why are the Environment Agency, Natural England and the regulators not being forced by you, as Ministers, to do these roles with a degree of urgency which, frankly, they have not shown to us?

Trudy Harrison: I am happy to begin answering that. On farmers, I have already set out the environmental land management scheme we have up and running.

Lord Carrington of Fulham: That does not stop chicken farms.

Trudy Harrison: It is a multipronged attack.

Lord Carrington of Fulham: It does not stop chicken farms, which are what is killing the Wye Valley and the river.

Trudy Harrison: That is a specific issue.

Lord Carrington of Fulham: It is a critically important issue and one that should be handled.

Trudy Harrison: That is partly why we have 4,000 inspections across farms. I am very happy to provide more detail on that specific. I feel like I am making an excuse for not being the Water Minister, which I am not. We need a timetable specifically for what is happening on chicken farms, which I am unable to give you right now.

On farmers, I think we are making progress. I live in a farming community. We have been on a roadshow over the summer visiting farm shows to speak. We have encouraged farmer-to-farmer clusters. I think it is pretty clear, working with the RPA, what is available to farmers at the moment across grassland, arable land and upland. There are various difference schemes where they can receive public money for public goods.

Lord Carrington of Fulham: Everybody says that we are doing something about it, but the pollution carries on going into the River Wye. The real question is: what is anybody doing about the pollution coming out of the chicken farms in Worcestershire and Herefordshire? We have a Worcestershire MP in front of us. You must be as concerned about this as everybody else. It is not just the Wye, although that is the one that has hit the headlines, but a lot of other places too. We need urgent actions.

Q199 **The Chair:** There is a supplementary question to that. It strikes a lot of people who have given evidence that there is a gross unfairness. The cause of the great bulk of the pollution is water companies and particular types of farming, but the burden immediately falls on housebuilders, which have been put out of business. They literally cannot get planning

permission or cannot progress planning permissions they already have because reserved matters applications are being turned away. It seems grossly unfair that the burden is falling on them and the Government are standing back and allowing that to happen.

Trudy Harrison: I think that is a reflection on the legal situation. As was the case in the 2018 incident, which is what the case law is based upon, it is about new burdens. If a farm has been operating within legal parameters, it is difficult to change that, which is why the focus is on new burdens.

The Chair: With respect, we have left the European Union. We are not like the Dutch. We can legislate. That is a European Court of Justice ruling based on European Union law. We can legislate to change it. It is in our hands. I realise that it is the legal position, but it is a legal position we can change. The Dutch cannot easily do that, but we can.

Trudy Harrison: I absolutely sympathise and agree that it feels incredibly unfair to the housebuilders. That is why, within a week of having the responsibility for nutrient neutrality in particular, I also have the responsibility for biodiversity net gain.

The Chair: We are coming to that.

Trudy Harrison: Good. We need to make sure that biodiversity net gain happens but that it happens in collaboration with housebuilders, not in the way that the nutrient neutrality issue has played out. I absolutely accept the challenge and the situation. My priority is speed and certainty for housebuilders. Anything I can do across Defra, working in partnership with DLUHC, to provide speed and certainty to housebuilders I will absolutely do. A week into the job, I am not sure where those changes need to happen in order to have the most impact.

Q200 **The Chair:** One of the contributors to biodiversity net gain is new housing developments. Is there not a lack of logic in saying that we are not going to have any new housing development, because you are not going to get the biodiversity net gain it would have produced?

Trudy Harrison: Completely, biodiversity net-gain would deliver 10% extra.

The Chair: The Government are shooting themselves in the foot.

Trudy Harrison: Absolutely. Biodiversity net gain will provide the 10% increase on what is there at the moment, and we are hell-bent on delivering that. We are working up the SIs and have the mechanisms for applicants to identify the habitat that is on a particular site, what would be lost, whether it is for a period of more than two years and how many credits you would get for a mixed hedgerow or a species-rich grassland. And they will have a number—a dataset—attached to that loss of habitat. I think that system is much clearer.

The way in which we have gone about that has meant there has been sufficient planning and that it is phased, so that the small builders we really want to protect will not be subject to biodiversity net gain until April 2024. We are prioritising the larger housebuilders in the first instance and then, ultimately, infrastructure.

The Chair: Local planning authorities are already imposing biodiversity net gain requirements even before it becomes mandatory.

Q201 **Lord Best:** Biodiversity net gain works against the brownfield sites that we all want to see developed. The only way we will get acceptability for 300,000 homes is not to keep doing greenfield sites out of town but to go for those brownfield sites. However, biodiversity net gain penalises you for developing on those brownfield sites—the very sites that we wish to see developed. The metric being used is a deterrent. This, of course, means that the small housebuilders do not get a look in because they tend to build on those smaller brownfield sites. You have built in a deterrent to the only thing that is going to get us to 300,000 homes: the use of brownfield land.

Trudy Harrison: Do you want me to speak to biodiversity net gain specifically and then come to Rachel?

Rachel Maclean: Yes, I will talk a bit about brownfield, maybe.

The Chair: The point Lord Best is making is that an abandoned site left to itself becomes biodiverse. If you want to develop it, you have to destroy biodiversity first because you are clearing the site. To have a 10% gain you are starting from further back, so you are penalising the development. The system makes it harder. We have heard evidence to this effect. That was the point he was making. Again, it is a shooting yourself in the foot thing.

Trudy Harrison: It is important to be sighted on the endgame here, which is the recognition that nature is declining at a rate of about 2% every year. It is in a terrible state; nature is in peril. I think we all agree that we need to improve upon that situation. The costs of not acting to improve nature will be incredibly expensive. Mother nature is the most expensive female force not to be reckoned with. That is the starting point. We have to do something.

In identifying the state of nature on a site and what the state of nature will be after or through development, we are simply understanding the impact of that development. But that is just one facet in the multifaceted approach a local authority will take when identifying land it wants to develop.

I also draw your attention to the commitment in Defra that everybody should be able to access a green or blue space—access to nature—within 15 minutes. I hope that we can work with developers to ensure that these developments retain the hedgerows, some of the grassland, some of wetland and some of the nature, and work with nature wherever possible. The alternative is really quite unthinkable.

The Chair: Very good, but it does not address the brownfield point. Would you take the brownfield point away, look at it and perhaps give us an answer after the meeting?

Trudy Harrison: Yes. We certainly do not want to create perverse incentives. I have already asked the question.

The Chair: We think you probably have.

Q202 **Baroness Thornhill:** Minister, I think you have to admit that you are in a very unhappy situation when SME builders are writing an open letter to the Prime Minister. A survey earlier in the year said that 92% of them are unhappy with—in their words—the “anti-development” stance of government. It is interesting to hear you assert very strongly about targets, building and driving things forward, because that is not the rhetoric, and there is a real gap. My concern is for these poor SME builders. As a committee, we held a round table recently where their worry—I will use the word “worry”—and concern were tangible. They expressed very honestly that, in a nutshell, they are worried for their businesses and work is drying up.

Trudy, I believe you have said that you have contacted all the authorities impacted by what I will call the environmental moratorium. But, Rachel, we know that 58 local authorities, and counting, have withdrawn or paused their plans. There are certain parts of the country—I think the whole of Somerset—where there is no building going on, so every SME builder in that area has no work or delivery pipeline and they are laying off people. I would say that we have an immediate issue. The stuff you mentioned earlier is certainly medium to long term, but we have a real issue with those builders now.

I wonder how much of a handle the department has on the reality of it. Is it working with the local authorities to find out how bad it is in their area and who is going to the wall? In those localised economies, that kind of thing can have quite an impact on the economy and productivity; you know the cycle.

Rachel Maclean: Absolutely. Those are all extremely good points and I agree with all of it. We work very closely with SME builders. I have personally worked with them. I have had a number of meetings and engagements with SME builders, and I have heard from them directly, as you have. Exactly as you have said, all the points in the letter to the Prime Minister have been made to me and my team in the department.

I will make perhaps a couple of points on that. We quite often hear commentary about local plans being paused because of the Government’s changes. It is important to pull out from that what is actually going on on the ground against what is sometimes being said. We have a team in the department, which I work with very closely, which has close contacts with every local authority in the country. We have a very good idea of what exactly is going on with a local plan at any point in time.

Obviously, I do not need to tell all of you, who are politicians, that local authorities may well have a political reason for saying, "Our plan is stopped because of the Government". It may suit the local political conditions. We all know how politically charged development is in any area. We have all looked at the results of the local elections and understand how these things can be politicised. Behind that are the actual facts of the process: what is going on? Are they at regulation 18 or 19? Has a planning inspector been called in?

We are taking probably quite interventionist actions with some of those local authorities to make it extremely clear to them that, whatever they said in the media about how they do not like the plan, we expect them to carry on with it. The bottom line is that if they do not carry on with making their plans, there will be consequences for them. Some of those consequences are what local authorities do not particularly want and will not end well for any of them. We have been very clear that the Secretary of State has powers to do that, and he is using them. I recognise the overall uncertainty in the whole system. It is a very difficult challenge, and we need to do everything we can.

In terms of SMEs, we have a number of measures in the Levelling Up and Regeneration Bill to address some of the challenges. We are doing some work on exempting small sites and providing extra support through some of the Homes England funding pots to small builders. We are doing a huge amount of work with Richard Bacon and the self-build and custom-build sector as well, because that is another source of innovation in the sector. There is a lot going on. There was a lot in your question, and I am trying to be brisk, but please follow up if you want.

Q203 The Chair: The Secretary of State for Environment, Food and Rural Affairs, when it was George Eustice, issued a Written Statement making the Natural England advice—because it is advice—to local authorities on nutrient neutrality a material planning consideration. So it is the case that the Government have effectively told local planning authorities that they have to give material weight to that advice; otherwise, they could ignore it because it is only advice.

If you are serious about this, are you going to persuade the Defra Secretary of State to withdraw that Written Statement? You are ignoring that when you say that it is the local authorities. I fully agree that some of them are playing silly games; I am sure that it is right. You say that it is the local authorities doing this, not the Government, but the Government have made that a material planning consideration.

Rachel Maclean: I think you are asking me two different questions.

The Chair: Maybe.

Rachel Maclean: You were talking about the nutrient neutrality specific advice, and I was answering on a more general point about plan making in the Levelling Up and Regeneration Bill.

The Government said that local authorities had to take that as a planning consideration. We had to do that because it was the law at the time. It is the law now. Obviously, this whole thing originated in the EU. When we left the EU through the withdrawal agreement, we legislated to take all those provisions into our domestic statute book. That is the law as it stands. We were legally bound to tell local authorities to do that. Unless there is a radical change in our environmental framework, which is led by Defra at the end of the day, it is our duty to tell local authorities that this is a legal thing that they have to take account of. Otherwise, the plans will not be sound, they will be thrown out at planning inspector stage, and they will not be able to build houses. We have to tell them what the legal position is, regardless of whether we like it.

The Chair: You could decide and declare that the need for housing is an imperative reason of overriding public interest—an IROPI—which would allow planning authorities to put different weight on the considerations we are discussing. Have you considered doing that?

Rachel Maclean: I wish it was as simple as that. Unfortunately, there are numerous legal restrictions. I am not a lawyer, but I know that the department has taken extensive legal advice on that, as you would expect.

The Chair: The answer is no.

Rachel Maclean: The answer is no. It is just not possible.

Q204 **Baroness Thornhill:** I have a question for Minister Trudy about another thing that SME builders were deeply concerned about. They described planning now as a tick-box exercise. There are so many policies, and they struggle with that more than the big boys, who can employ people to do it for them. What actual support will there be for SME builders to meet all the environmental targets? Is there any thought to streamlining the process for them in some way, because they were definitely grappling with that?

Trudy Harrison: This has got in to such a serious situation. It is such an unacceptable hold-up for our housebuilders and our communities. My introduction to politics was saving a small school in a part of the Lake District National Park, which was stifled by past Lake District National Park planning policy. We overturned that as a community, and we were successful in getting the biggest mixed-use site ever in the national park's history approved. I have first-hand knowledge of what it is like to get a planning decision through. I also understand the implications for rural communities—in particular, not having sufficient housing for rural service centres and for many other reasons.

I do not think any of us are saying that the environment is not important. None of us are saying that nature is in a good state. There is a universal acceptance that nature is in peril. The question is: what do we do about it? How can we square the circle? How can we ensure that the environment improves, and the houses get built? That is why I want to have a grown-up focus on making sure that everybody in that supply

chain of housebuilding has the information they need to assess what habitat will be removed, what the impact on nature will be and what they can do about it. I do not think it is beyond the wit of man—it is certainly not beyond the wit of woman—to sort that out.

Rachel Maclean: I just want to say something about the planning system, because that sits with DLUHC, and about capacity, as mentioned by Baroness Thornhill. Every time I meet builders, whether large or small, they say that is a significant barrier. Over the years, we have all agreed that nature, the environment, farming and water are all vital things that we all care about. I think the planning system is a bit like education: everyone says that we need to help children to cook or to budget, so you put more lessons in the curriculum. Planning is just the same; it seems to add more things on. Who is at the rough end of that? It is the smaller builders.

We recognise that and we are doing a few things. We have a whole programme in government of upskilling planning. We have seen that unfortunately planning departments are struggling with resources. We know that a lot of the highly paid consultants are leaving to work for residents' groups that want to oppose development in their area.

Baroness Thornhill: Or the private sector.

Rachel Maclean: Or the private sector. We have seen that happening, so we are helping local authorities. One of the most important things we are doing is allowing local authorities to raise planning fees for major applications. That will mean that there is more resource flooding into the system, which will enable them to upskill their planning departments. It will, I think, be a 35% rise in fees for major applications, but smaller ones will not pay as much.

We have a whole series of programmes providing a hit squad, if you like, of resources into specific authorities that are particularly struggling at this time to help them get the whole system flowing again, and you are absolutely right to highlight this as a problem. We are also doing a whole digitalisation programme. You talked about a tick-box exercise. There is no reason why, in this day and age, it should not be online and straightforward. It should not require them to fill in hundreds of bits of paper over and over again. That work has already started. We have some quite promising work going on, but we definitely want to roll that out much faster to speed this whole thing up.

Trudy Harrison: We will play our part to make sure that the information that DLUHC has is in plain English and is accessible.

Q205 **Lord Faulkner of Worcester:** I think we accept that SMEs are struggling in the construction sector and very few houses are being built. There is a risk that more and more will go out of business, so will not be there if there is an upturn in the market. You are able to support the SME sector because you are not constrained by European rules anymore. My simple question is: are you going to do that?

Rachel Maclean: We have specific funding that we have put in place. The Chancellor has made quite a lot of funding available. There are three main routes. The Housing Accelerator Fund is a lending alliance that provides SMEs with construction finance to get projects off the ground. They can borrow up to £10 million. The Housing Growth Partnership is a vehicle that will support them to draw down on finance. It has invested alongside 46 housebuilders to deliver nearly 5,000 homes. We also have the Housing Delivery Fund, which will make loan finance available.

So we have a variety of different mechanisms that are working at the moment to help small builders. Obviously, we always want to do more, but as you will know these things are the subject of discussions with the Treasury, and taxpayers' money is always in short supply.

The Chair: Can we have more details of those schemes afterwards?

Rachel Maclean: I am very happy to write a full letter. My private office will take that as an action.

Q206 **Lord Mawson:** I am very interested in the granularity of it. I have listened to many of these conversations in Westminster, but I know as a practitioner when I look on the ground at the granular detail that something quite different is going on. You tell us that nature is not in a good state. I wonder how much you know about the unintended consequences of previous government policies that have led to this state of affairs. What are we learning from what has gone on before? If we are not learning very much, how on earth do we know what to do going forward?

Trudy Harrison: I think we have learned that hedgerows are very important. I am being slightly facetious there, I suppose. But we have certainly learned that the government policies that my predecessors presided over in the pursuit of food security have had a direct detrimental impact on nature. I am from a farming family, and if my grandad was still alive he would absolutely be saying the same thing. Some of the policies that persuaded, influenced or mandated farmers to get as much out of their land as possible, at cost to nature, will have not been what they wanted to have done, but it was the government policy of the time—as one example.

I also think we have learned that just focusing on one thing can lead to consequences for other areas. There is a wider point about why the £56 billion plan for water is absolutely the right thing to do and is vital; it is holistic and comprehensive. But that works only if we are also working on the run-off, predominantly of nitrogen, from farms. That is why we have the environmental land management schemes: because that will tackle that aspect. It is why, in planning, we are tackling road run-off as well. We are much more joined-up in understanding where the harms are and how we develop policies that avoid perverse incentives wherever possible.

The Chair: Rachel, what have you learned?

Rachel Maclean: I would need several hours, so let me try to summarise it.

The Chair: Try the two-minute version.

Rachel Maclean: I have learned that anyone who tries to be pro-planning in a local area will find it extremely difficult when faced with the local electorate. So we need to consistently keep in mind how we take communities along with us. Everything that we are doing in the Levelling Up and Regeneration Bill is designed to send a message to local people in that street who happen to live next to that field or are in that village or at the end of the road that houses are coming there, but that when those houses come there will be a GP surgery and we are thinking about the roads and the preservation of the green space that they care about.

If we do not do those things, we all know what will happen: people will protest, they will object, and their objections will be ignored because, at the end of the day, the local plan will not be made. There will then be a speculative development that will get approved, people will be even more angry, they will turn their anger to the local council at the end of their road and vote them out, and the cycle continues. Unless we try to figure out how to have that conversation with our communities—that is what the Secretary of State has talked about with his whole ‘BIDEN’ vision—we will not make any progress. That is what levelling up is designed to do.

Q207 **Lord Mawson:** I am interested in that question, because I think it is about the crucial detail of how you do that. I have just received a letter from the Levelling-up Minister in the Lords telling me that local authorities have it fully in hand to do this on their own and are quite capable of sorting these things out. I do not think the evidence we have been receiving shows us that at all. A lot of it tells us that the machinery of state is in a lot of difficulty, there is lots of duplication, and local authorities do not have the skills, the capacity, or even the understanding to do these basic tasks. What are your reflections on that?

Rachel Maclean: I said earlier that we accept that local authorities have struggled, because obviously planning is not a statutory function and they been under pressure, as the whole public sector has. There are massive pressures on children’s services and everything else, so of course they are taking difficult decisions.

The whole point of the Levelling Up and Regeneration Bill is to change the state’s approach to this. It is saying that infrastructure has to be there, and there has to be a transparent process for local communities to consent to. That is the whole thinking behind the infrastructure levy, changing the way Section 106 is done so that people can see: “Okay, we will accept this housing, because we need it. Our children can’t afford to live in our lovely village, nor can our key workers. We like to have our lovely village, we like to have our green space with its nature and hedges, but we also recognise that we need more houses, and the only way we’re going to square that circle is by changing the way the system works at the moment”. That is not going to happen overnight night, of

course. It is a long process. It will take us quite a few years to learn how the infrastructure levy is working on the ground and then make the changes that we need to make, but it is vital that we do so.

Lord Greenhalgh: We have been talking a lot about capacity, but I would like to focus on expertise. This question is for Rachel. Do you think there is enough expertise throughout the planning system to address ecological concerns but still unlock development?

Rachel Maclean: I do not think there is at the moment, which is why we are taking some of the actions that we are taking. We will shortly be launching more details about the planning skills delivery fund that we are supporting. We have lots of work going on with the sector to help it to develop its own skill set, because it is a rapidly changing scene and they have to get grips with all these new pieces of legislation all the time. The profession is saying to us that it needs our help to develop a pipeline of skilled planners coming into the profession, so we are helping them with that. We also know that taking out some of the administration, the duplicative nature and all the bureaucracy through digitising and simplifying will also help them. That means that they can use their expertise for the things they really need to focus on, rather than doing an awful lot of tick-boxing and paperwork.

Lord Greenhalgh: That is helpful to know, but when we have taken evidence what has struck me is that not all planning authorities are in the same place. Some have quite a lot of expertise, but others are lacking. Are you able to target that skills fund to the places that need it most?

Rachel Maclean: Yes, very much so. We will be asking local authorities, "What do you need this funding for?" We will be asking them to make business cases and to track their performance. Of course, it is public money that we are talking about here, so we want to make sure that it is used wisely. We want to ensure that when it is used by a local authority it is making a tangible difference to the process of those planning applications so that we can get more houses built.

Q208 **Lord Greenhalgh:** My next question is on similar lines. We have had evidence that planning authorities have sometimes defaulted to ask for more than they need when it comes to ecological assessments and analysis, not what is strictly necessary. I think the Minister is saying that they will try to get the skills so that that is not the case.

The Chair: I do not know whether it is a skills question. Sometimes it seems to be a way of deferring and delaying planning decisions, sending them back to ask for more and more superfluous ecological and environmental statements or saying that work that was done two years ago when the planning application started is no longer valid and has to be done again. How much of that is going on? What are you doing about it?

Rachel Maclean: That is a very fair criticism. There is one thing about how the statutory consultees work, and that is work that Defra is doing in Trudy's department. For us, we know that we need to apply a more

consistent approach so that we are not going back and asking people to redo things over and over again. Part of that will be in the ongoing reforms that we are making to the planning process.

Everyone will know that I am not a planner by trade, but my officials have been working closely with planners and local authorities on the detail of this. Of course, it is not possible for me as a Minister to understand how these systems work on the ground, but we are working with people who are doing that day to day and taking direct feedback from that so that we can make the best possible changes to help them do their jobs.

Q209 The Chair: Since you have mentioned the statutory consultees, Rachel, can we ask you, Trudy, whether you are satisfied with the way in which the Environment Agency and Natural England engage with significant planning applications in terms of the time, resource and speediness of their responses? Are they guilty—well, I know they are—of sending people back to do work again that they have already done three years ago but are now told they have to do it all over again because everything has been delayed and it is all their fault anyway? What are you doing about this? It is overlapping, it is messy, it is bureaucratic, and it is a block on necessary development.

Trudy Harrison: As the lead minister for Natural England, I will say that it is often brought in when the proverbial really has hit the fan, and it is often brought in too late. We have a team there of exceptional scientists, experts and specialists who are world renowned. I am also responsible for international biodiversity. I was in Morocco as vice-president of the United Nations Environment Assembly, and I look forward to attending COP 28 as well. I know from speaking with my global counterparts that the UK is recognised as a leader in environmental regulation legislation.

The Chair: In housebuilding. We know that.

Trudy Harrison: I am explaining why I value Natural England. We have some real experts and specialists there. However, we need to ensure that the finite number of people we have working in green jobs—that is why we have the Green Jobs Taskforce—do not need to wade through treacle in order to find the information that they need. When they find it, it needs to be available in plain English so that they do not have to translate it, as I am certainly having to do at the moment. That is completely unacceptable. It is a time thief and it does not aid speed and certainty, so that is where my focus is.

Rachel Maclean: I would like to add one thing. As your Lordships will know, there are some important changes in the Levelling Up and Regeneration Bill to the way environmental impact assessments are done, shifting the focus from assessment to the actual outcome. Everyone who has scrutinised that agrees that it is a significant change, because instead of asking for a steady-state assessment of where things are at the moment, we are asking them to think about what they actually want from this.¹ Obviously, it is still being scrutinised, and there is an

awful lot of work that we will have to do in our House and you will have to do in yours on the detail of that, but that will be a significantly important change in how the statutory consultees, especially on the environmental side, work in this.

Q210 Lord Berkeley: You have recently introduced local nature recovery strategies as something additional for local authorities to look at. We discussed earlier the land use frameworks, although I do not know when they will be published. I hope I am wrong, but I get an impression from some of Trudy's answers relating to the balance between the environmental side and the planning side. We have heard a lot about the planning side. This came from the answer that you gave to Lord Carrington: "We're going to go around the agricultural shows and try to convince the farmers that they need to do better". Is there not more that you can do? You did not really answer Lord Carrington's questions about sewage or chicken farms.

Trudy Harrison: I admit that I was not able to provide the specifics on the chicken farm—I am neither the Farming Minister nor the Water Minister—but I will endeavour to write to Lord Carrington on the specifics of that.

Lord Carrington of Fulham: Please do not write to me.

Trudy Harrison: Sorry, yes, I will write to the clerk. I mentioned the agricultural shows not because we go there to tell farmers how they can be better but because we want to let them know that £2.4 billion is available for them to apply for through some new schemes, and these things take time to bed in. The agricultural shows are one of many examples that I could give of how we are helping farmers to understand this system.

It is also about how we change our ways. After listening to farmers' saying that some things are too complicated or do not make sense, we have changed the standards across ELMS and will continue to listen and change in order to help farmers. If we do not do that, the 70% of land in this country that is farmed will not be improved, which is what we need in order to meet legal environmental targets. That is why I mentioned the agricultural shows. I would hate you to think that it was a jolly and it was the only thing that we were doing, because that would be far from the truth.

Lord Berkeley: I do not think it is a jolly, but it is still a voluntary process of persuading farmers whereas the poor old housebuilders do not have that. They have to have all these different offsets and everything else, otherwise they cannot build their houses. There seems to be a mismatch between a system that is voluntary for farmers but not for housebuilders.

¹ In terms of how plans and projects can meet environmental outcomes.

Trudy Harrison: I think that is fair. I am very much looking forward to reading the report that you will provide us with.

Lord Berkeley: We are looking forward to your answers first.

Trudy Harrison: I thank Members for taking this bull by the horns. What I am trying to say is that I agree with you that we are not where we need to be, which is why we and our officials are working closely to try to find a solution, but it cannot be one that results in harmful impacts on the environment.

Q211 **The Chair:** Where within government are these policy tensions between the departments actually resolved?

Rachel Maclean: Perhaps I can answer that because I know Trudy is quite new to the role. When I was appointed as Housing Minister, we identified that straightaway as an essential issue affecting builders small and large, as well as our aspirations to provide housing for everyone in the country. We have a cross-government group that sits across our department and Defra. I work closely with the current Water Minister, Rebecca Pow, and we have unblocked quite a lot of different, very knotty problems through that work. That is how we developed the Natural England scheme.

I accept that these are small and do not go far enough. Nevertheless, they did not exist before this work started. We sit down with Natural England, the Environment Agency, our respective departments, planning experts and Ministers and spend hours going through the detail of this to figure out how we are going to get this housing unblocked. No. 10 is also involved, as you might expect; the Prime Minister has a direct interest in this work.

The Chair: So it is the Prime Minister that we should look to.

Rachel Maclean: Absolutely. Ultimately, the Prime Minister is responsible for any policy decision—with our advice, of course.

Trudy Harrison: I would like to answer Lord Berkeley's point on the land use framework. We are committed in the environmental improvement land that that would be published this year, and I can confirm that it will.

The Chair: We come now to the last question, which is not one that we have given you notice of because it relates to the startling announcement yesterday by the Secretary of State for Levelling Up, Housing and Communities that 250,000 homes will be built in greater Cambridgeshire. Sitting in Cambridge as we speak, and joining us by Zoom, is our committee member, Lady Cohen of Pimlico.

Q212 **Baroness Cohen of Pimlico:** What we have in Cambridge is a very interesting situation. At the last planning application, the planning inspector did not try but just called everyone in, including representatives from the Environment Agency and Natural England, and said, "Look, I don't think we can go much further with this, given the Environment

Agency's ban on further extraction from the large and messy water system that we have in Cambridge". Everyone agreed that that was so. No further progress could be made. It was excellent to have brought it to everyone's attention, but nobody had any idea what we were going to do about it. That was just one planning application in one part of Cambridge. There is a fairly desperate need for housing in rapidly growing Cambridge, but if the Secretary of State thinks that many hundreds of thousands of homes are going to be built, I do not for the moment see how.

The Chair: The essential point that Baroness Cohen is referring to is a planning application for—I am not sure whether it is 5,000 or 10,000 homes—

Baroness Cohen of Pimlico: It is 10,000.

The Chair: They were planned to be in the vicinity of the station, but have been refused on appeal on the advice of the Environment Agency that there is, as I understand it, an inadequate water supply. So if 10,000 homes are not permitted because there isn't enough water, how are we going to get 250,000 homes in, even if that is spread over a number of years?

Rachel Maclean: Thank you for asking me about this. Obviously, that was reporting in national newspapers based on speculation. It is important to be clear that what was published in the *Sunday Times* is not an announcement. It was speculation from various leaked documents that had been provided in whatever ways these leaked documents are provided. We cannot comment on that speculation, but this is not currently government policy. On your point about that specific planning application, I believe the one that you are referring to is a recovered case and, as Planning Minister, I cannot comment on any specifics in any detail, as you know.

The Chair: I am sorry, I had not realised that it had been recovered, and I would not have asked you about it if I had.

Rachel Maclean: That is fine. I know you would not have done. I would like to make the broader point that, as I think Baroness Cohen said, there is recognition that it is in the national interest to grow our economy. How do we do that? By supporting our world-leading industries such as life sciences, which are beating a path to our door and saying, "The one thing that's stopping us investing in the UK is that we don't have enough laboratories". Cambridge, Massachusetts, has something like a thousand times the number of wet labs that we have in the UK. Obviously, it would be wrong of the Government not to start thinking about how to solve this problem, notwithstanding the real, practical issues that exist on the ground that you and others have made clear to us. It is important that the Government have a long-term approach to these matters, but on the specifics of Cambridge or anywhere else, the Secretary of State will be making announcements in due course in the usual way.

The Chair: Right, so we have learned from that that the Government do not have a plan to build 250,000 homes in Cambridge or greater Cambridgeshire.

Q213 **Lord Berkeley:** One of the best ways of providing more water is, of course, to tell farmers that they cannot irrigate their fields. I suspect that around Cambridge, although I do not know the area well, that will definitely be one of the measures. Again, can Defra tell the farmers and remove their licences after a certain period? How else are they going to find the water, which is clearly what Baroness Cohen is saying is the problem?

The Chair: I think what Lord Berkeley is asking is whether you have that power. I do not think he is suggesting policy.

Trudy Harrison: We have our plan for water, which addresses everything from water supply to water sufficiency right through to how we tackle sewerage and the wastewater treatment plant upgrades. The Environment Agency would preside over abstraction licences where water needs to be taken, but we have a clear undertaking to provide food for our nation as well. It is about referring to the plan for water and ensuring that we have a long-term strategy in place for supply in all areas of the country.

The Chair: I was not going to end on this sour note, but the Environment Agency has told us repeatedly in emphatic terms that the plan for water is no use without an implementation plan, which it is waiting for. In fact, we are all waiting for it. We do not know when it is going to come, but we hope it will be later this year.

Trudy Harrison: Certainly, across my brief, we are laser-focused on delivery—and on granular detail, I hope Lord Mawson will be pleased to hear.

Lord Mawson: Are we allowed a final question on granular detail?

The Chair: No, we have had enough of that. We have reached 12 pm. We thank our witnesses for coming to see us. We got through all our questions and are grateful for the briskness with which you responded to them.