

Environmental Audit Committee

Oral evidence: Environmental sustainability and housing growth, HC 439

Monday 30 June 2025

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[Watch the meeting](#)

Members present: Mr Toby Perkins (Chair); Julia Buckley; Ellie Chowns; Barry Gardiner; Pippa Heylings; Chris Hinchliff; Martin Rhodes; Blake Stephenson; Alison Taylor; John Whitby.

Questions 349-396

Witnesses

I: Philip Duffy, Chief Executive, Environment Agency; Marian Spain, Chief Executive, Natural England; and Eamonn Boylan, Chief Executive, Homes England.

Written evidence from witnesses:

[Natural England](#)

Examination of witnesses

Witnesses: Philip Duffy, Marian Spain and Eamonn Boylan.

Q349 **Chair:** Welcome, everybody, to the latest meeting of the Environmental Audit Committee as part of our review of environmental sustainability and housing growth. We have, unfortunately, some construction work going on outside the window, so if there are interruptions from that noise, I apologise to anyone watching. The British construction industry has many attributes, but stealth is not one of them. We will do our best to ensure that everyone can hear our proceedings.

I am very pleased to have been joined by our panel. Welcome to you all. Starting with Mr Boylan, will you please introduce yourselves, the organisation you are representing, the responsibilities of that organisation for planning and its consequences on the environment?

Eamonn Boylan: My name is Eamonn Boylan. I am the interim chief executive at Homes England, which is the Government's housing and regeneration agency. Our primary responsibility is to promote the delivery of housing growth through interventions where the market is unable on its own to bring forward housing where it is needed. Effectively, we are an intervenor of last resort to support the delivery of housing of all tenures.

We have a particular focus on delivering the affordable homes programme, which is the programme to provide grant aid to registered providers or housing associations for affordable and social housing. We also support the delivery of private homes through financial instruments and investment funding to the private sector where appropriate.

Marian Spain: I am Marian Spain, chief executive of Natural England, the English statutory nature conservation body. We are a regulator of nature through protected sites and protected species. We are also a statutory consultee to the planning decision makers—to local planning authorities—and we are increasingly trying to exercise that role as a partner, not just a consultee, providing guidance and support to help local authorities to make decisions that provide for growth but also protect and restore nature.

Philip Duffy: I am Philip Duffy, the chief executive of the Environment Agency. We are a non-departmental public body sponsored by DEFRA, founded under the Environment Act 1995. We have a dual mission, which is to protect and enhance the natural environment and to support sustainable development. Our role in housing is largely related to the planning system. We comment on about 10,000 planning applications a year, mainly for flood risk but also for issues like contaminated land and impact on protected sites.

Chair: Thank you very much. We will start with Alison Taylor.

Q350 **Alison Taylor:** What are the biggest challenges and gaps in the co-



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ordination between your respective bodies?

Eamonn Boylan: Clearly, as agencies we all are tasked and commissioned by Government to deliver certain priorities. We work very closely together at a strategic level and locally at a project level. Although I have been with the agency for a short period of time, my experience has always been that we have managed to find ways of accommodating and mitigating risks that have been identified by each partner. We would never take forward schemes that had been appraised and evaluated as being detrimental to the environment. We take advice from Natural England and the Environment Agency on a very large number of the schemes that we are bringing forward.

Marian Spain: To echo that theme, we increasingly see the work we are doing with Homes England as exemplifying what we hope other developers will be able to do, to understand that nature-positive development is good for the people who will live in those homes and good for wider society. We have a number of examples of where we, Homes England and the Environment Agency are making that a reality on the ground.

To take your question very literally, back to where you started about challenges, what we are seeing in the work we are doing, especially with the Environment Agency, is that historically the legislative regulatory regimes we work to have worked in parallel but perhaps have not always coincided. We are increasingly trying to see how we bring those regimes together. For example, as many of you will be familiar with, the challenges affecting nature now are not necessarily a direct impact—it is an indirect impact such as air or water pollution.

Some of the reforms that Government are bringing forward will help us to continue to integrate that regime and make sure that our two regulatory regimes increasingly coincide and drive the right development rather than stop development. We see our job as being to point out where there are risks to the environment, but also to provide solutions so that development can go ahead with the right conditions and mitigations in place.

Philip Duffy: Let me start with Homes England. It is often working on very large strategic sites and we provide dedicated support to it to make sure that we work together from end to end on those sites. An example of that is Chalgrove in south Oxfordshire, where we worked very closely with Homes England to make sure that the plans from the inception met the environmental standards we are looking at. We also have a good relationship with the specialist advisory team on large sites, ATLAS, which is within Homes England but works very closely with the EA teams to make sure that things like flood risk are taken into account from the beginning. We also have a joint programme on the Oxford to Cambridge arc, which is an area where there is a lot of water stress. That is an area where we have been working very closely from the inception.



On Natural England, Marian and I are very committed to making sure that this feels more seamless to end users. We are currently two agencies with very different remits. Marian's focus is nature but also protected sites; ours is about pollution, essentially, and the water environment. The two should be able to be integrated well. We are looking at things like how our IT systems work together and whether we can offer a common standard for answering queries from the public.

As Marian was saying, there is a big issue about our legislation. A good example of that is trade-offs between water protection and reservoir safety, and whether those knotty issues can be resolved more effectively at the ground level. We are thinking about how we might do that. Part of it is the work that Dan Corry's review suggested we should look at about having a lead regulator—one point of contact to do the project management and make sure all the factors are considered end to end in complex, large-scale projects.

Q351 Alison Taylor: Thank you very much. Extending on from that theme, what systems, structures and resources are needed to improve collaboration and alignment?

Philip Duffy: The main issue is IT. If you look at the performance of the Environment Agency on its planning work, what has been holding us back in the last six months has been very intermittent IT support. We have a system called DP3, which is a very aged system. It strikes us that we could replace that, and we were successful with our colleagues in DEFRA in getting funding at the spending review for a programme of reform. You would not do that just for the EA. If you had a good geospatially-enabled caseworking system, you would extend it to other parties across DEFRA group that are doing similar work, most obviously Natural England but also MMO, which has a role in those areas. I think that is important.

Secondly, there is quite a lot of good joint work at the area level between the Environment Agency and Natural England. We both have area teams working right across England. Making sure they are liaising properly and they understand the casework flow they are getting is important.

Finally, there are small issues like making sure we have a common view of an environmental impact assessment for a site and we are giving common advice on those areas. We are working closely on things like BNG and local nature recovery strategies. For example, they are led from Natural England but with the water environment material coming from the EA, which is a good basis for understanding how those things will play out in particular areas and catchments.

Marian Spain: I will try not to repeat what Philip said but introduce a few other things. I do want to emphasise the digital one. We deal with 32,000 planning inquiries and planning consultations a year. We think about a third of those just do not need to come to us—we do not think we add any value to what a good local planning officer could judge for themselves. However, one of the barriers to that is that they are



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currently unable to access all the data that we hold and we are only able to properly access each other's data by relationships and human interventions. It is about having a more comprehensive environmental data system that all decision makers can access and, therefore, see the same evidence and analysis and reach at least better-informed judgments, if not always exactly the same judgment. We could even extend that to people like Homes England and other planners so that we are all operating off the same information.

The other systemic change, which is not an IT one, is that the idea of the lead regulator Philip mentioned should not just be a post box to allow there to be a single point of contact. For me, the value add of that is that we sit around the table earlier and have earlier conversations about not just the environmental risks but the environmental opportunities, so that we are not just managing problems but looking to make more nature-positive developments.

The final thing in that sphere, which I suspect we might return to as this Committee goes on, is to have a more shared risk appetite, and a shared understanding. A number of the changes that Government are looking to bring forward through the planning reforms require us to have a slightly different appreciation of risk and understand where there are opportunities to add value. We have a planning system at the moment that has done a good job in protecting sites. What we need to move to is a more dynamic and flexible planning system that also allows us to create opportunities for more nature and more green space.

Eamonn Boylan: At the risk of sounding boring, IT is key, as is our ability to share data. We do a lot of work on geospatial analysis and suchlike, which we struggle to share given the current systems.

The other thing that has not held us back but has been a disadvantage in the past is that our scheme appraisal processes have not really taken sufficient account of the totality of the environmental impact of what we do. We have now designed an assessment tool that enables us to do that in a much more integrated way, but we need to be able to digitise that and share it more widely with colleagues so that it is much more interactive and integrated across all the agencies.

Q352 **Alison Taylor:** I have a final question, but I think you have already answered it in part, so I will invite anybody to chip in with any additional points. Are there any shared data platforms, joint teams or formal protocols that could be strengthened or introduced that you would like to recommend to the Committee?

Philip Duffy: We have just issued the national flood risk assessment, which now provides a 2 metre by 2 metre squared view of England and the flood risk from coastal, fluvial, pluvial and groundwater. That is an available dataset that more people should be making use of to make better decisions throughout the planning system. It is not obvious that



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every local planning authority has to come to us about that. They can see that material publicly.

Secondly, on the water environment, we have our own microsite now where we publish all the data about our inspections and our water framework assessment data of where watercourses are. Over time we would like to layer more information on that so that people can see some of the constraints. When it comes to house building, a particular issue right now has been things like the tributaries of the upper Thames, many of which are under significant pressure under the water framework directive. It is healthy and positive that we can share that data in an easily accessible way to the public and to other groups around the country. They can see the trade-offs. That opens up that strategic thinking that Mr Boylan was discussing about where you put housing and what the infrastructure requirements are for more housing. That is a very positive development.

Marian Spain: Echoing that, the system we use for protected sites is called MAGIC—that is just an acronym. With the system we use for protected sites, there is no reason why planning officers should not be able to access that and see exactly what our staff are seeing. As I said earlier, a lot of the time we think that they could make an equally good judgment, because they are using the same information. For the lower-risk cases, we think that if the planning officers used that information they would not need to seek our advice as well.

Eamonn Boylan: I will simply echo what my colleagues have said.

Alison Taylor: Thank you very much, panel.

Q353 **Chair:** Ms Spain, you said that the planning system has generally done a good job at protecting nature and protecting sites, but it needs to be more dynamic going forward. The Government would say that it has made planning in this country too expensive and too cumbersome. It has enabled groups with a particular area of interest to block things. To what extent do you accept that argument? Or would you push back against the Government's sense that the planning system is far more cumbersome and bureaucratic than it needs to be?

Marian Spain: Reiterating what I said, much of the nature regulation that applies within the planning system has been there to protect, and I think that has been necessary. If we didn't have that, we would not have the legacy of 75 years of protected sites that are not always entirely protected in planning but are heavily considered in planning. That basic framework for protected sites needs to continue and, of course, will continue in the current reforms.

The bit we are all very aware of is exactly as you say. Sometimes the implementation of those regulations can feel nugatory, difficult and quite reductionist. That is what I meant when I said that we would like to move to a system where the planning system is seen as more flexible to what



society needs now, and more dynamic. In particular, those protected sites have done their job but they have not stemmed the wider decline of nature through the wider—I was going to say countryside, but I also include seas and towns, throughout the nation. It is about having a planning system that makes it easier to comply with a basic level—a basic minimum standard—for protection but increasingly allows developers to make informed choices about where they can contribute to nature and green space and increasingly empowers planning officers to do that. I will carry on unless you stop me.

On the idea of moving to a more spatial planning system—having spatial strategies that bring in nature and environmental issues much earlier—one of the reasons the planning system can sometimes feel quite cumbersome to operate is that often those decisions are happening later in the day. We should have spatial plans that do proper place making, that don't just make choices about development, and that increasingly help a developer to understand what the expectation is and what will be happening on that site, and then increasingly allow bodies like Philip's and mine as regulators to be much more confident and clear with developers and planners up front what will be acceptable and what can be consented a lot sooner. It is not about changing the basic protection; it is about making it less cumbersome and easier to work with. We hear from developers all the time that they want certainty, because it is that certainty that then allows them to act more at speed. That is what we want as well.

Q354 Blake Stephenson: Mr Duffy, given the pressures to accelerate house building, how will your organisation ensure that it continues to robustly apply environmental protections, particularly in cases where there may be pressure to permit planning in inappropriate locations such as on flood plains?

Philip Duffy: I think we take quite a good stance on this. We have heard loud and clear from the Government, and I agree with them, that it is important that the system is fast, responsive and modernised, that it has modern IT and that it does what it is supposed to do. We have this target of getting 95% of applications out within 21 days. We are not quite meeting that. Last year we met that for 88% of cases, and we are trying to make sure we accelerate that by September. That was a commitment I made to the Chancellor at a meeting earlier this year.

That is about the process. It is not about the outcome or the content of our advice. One of the metrics we hold ourselves to is how often our advice, particularly on flood risk, is heard and listened to. I mentioned earlier that we comment on about 10,000 applications a year. From the latest numbers I have on flood risk for the period January to March this year, 51 times our advice was ignored and we put that in our metrics; 40 times we objected and we were not listened to by the planning authority; and 11 times we asked for planning conditions that were ignored. These were normally about evacuation planning in very high-risk locations. Out



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of 10,000, that is not a bad outcome. It is also worth saying that our objections led to 234 applications being modified. That is a very important part of our role. Saying we are worried does not mean the story stops. It means we want people to rethink how they are planning those areas and make sure they have thought again before they do it.

There are a number of issues that I think need to be finessed in how we do this work. An area that concerns the agency is what you do about a place that makes perfect sense from an urbanism point of view but faces very high flood risk, where if you grant consent you are assuming that at some point you would need to invest more money in the flood defences and we don't have that budget currently. That is a question of alignment that we need to get right. We have had a few cases, most famously near Bristol Temple Meads station, where we lost at the inspection. We still think that is a high flood-risk area and will need to have flood protection put in place later on.

On broader environmental issues—maybe this speaks a bit to the question that the Chair asked Ms Spain—we think that there is a problem with co-ordination between the water regulatory system and the land use system. That is what is generating tension at the planning application level. It cannot be right that we are objecting to land use planning applications in Oxford because there is a lack of wastewater treatment capacity. That wastewater treatment capacity should be planned for over time. We know from the latest forecasts that we will have 8 million more people in England by 2050. What are we doing about making sure there is enough wastewater treatment capacity? Time and time again we are seeing the industry not putting in place things they have promised they would put in place in a rapid way.

A similar argument can apply to water resource planning. Although I think we now have quite a good handle on the household formation, we are less good at planning the non-domestic water consumption requirements for the land use planning system. These are matters that Sir Jon Cunliffe commented on in his interim report, and we are looking forward to hearing what he has to say about that.

Q355 Blake Stephenson: Thank you very much for that answer. It is good to hear that you are planning to almost increase your productivity in responding to applications. Of course, 100% would be great, but the question is how you will get there as an agency. I do not know the answer, but related to that is the question of the Environment Agency's budgetary position after the spending review. How does that impact, if at all, your ability to improve responsiveness to planning applications?

Philip Duffy: Obviously, anyone who runs a public body would like more resources, but the situation for us on our planning work is that it costs a little under £8 million a year that we give to our planning teams across the country. That number in cash terms has been pretty much consistent since 2017. It dropped down to nearly £6 million; it is back up at about £7.9 million for this year. You get there by different methods. We brought



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in different charges, different pots of money, with different functions, but we ended up with a flat cash position. Given that we have inflation and we have pay, that is a challenge and we have to be more efficient.

How are we going to do that? There are three big things that we are putting in place. The first one, as was alluded to, is improved IT. We will try to invest more in our IT, because some weeks we are losing a couple of days of productivity through IT failures. Secondly, we have to have a common risk bar. We need to make sure that every EA area has the same view of what they should and should not comment upon and not do too much or too little. We are finding some inconsistencies across our areas. We are trying to iron those out and make sure that we have got those areas.

You are right to raise what happens with the 5%. I want to make sure that the right 5% are the ones we take longer over. That is about making sure that those cases are the ones that often have a multi-year environmental impact assessment. They are more complex. The ecology is more complex. Secondly, the schemes that have a lot of interface with other issues, particularly contaminated land, are a big issue for us. Thirdly, you may or may not know this but when we have a critical incident, all our staff come off their day jobs and deal with floods. That means cleaning up trash. We have intermittent service standards over winter and we allow for a bit of flex in that 100% because of that.

Q356 Blake Stephenson: Thinking about flooding particularly, because it is something I have been working on quite a lot in my Mid Bedfordshire constituency, the Environment Agency is not the only agency that has expertise in flooding and water management. In my area, the internal drainage board also contributes to planning consultations, but it is not a statutory consultee. Given the pressures on the Environment Agency going forward, with the need to build and all the constraints you have just described, and notwithstanding your great plans and your confidence in them, is there a role for other organisations such as the IDBs that would be valuable, particularly for encompassing within the Planning and Infrastructure Bill?

Philip Duffy: I don't know about the Bill, but we have a very strong relationship with the IDBs. They play a critical role. Areas where we are currently collaborating with them more intensively are things like setting the right water level in a partially flooded landscape. That can provide more water for farming in a period of prolonged dry weather, as we are currently experiencing. The IDBs can do that in collaboration with us. There is an alternative to that, which is draining faster during periods of high water and allowing farmers more flexibility when they take water for their own needs. There is a significant role for them in those areas.

They have received additional money from the Government. An extra £16 million was given to them. That is helpful because they have seen erosion in their own spending power caused by constraints on the council tax precept they currently raid. We talk to them all the time in particular



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areas like Lincolnshire, where we co-manage quite a lot of those areas. It is an important role and it is important in places like Mid Bedfordshire.

Q357 Blake Stephenson: Thank you. Ms Spain and Mr Duffy, do you feel that your roles as statutory consultees are sufficiently protected from political or commercial pressures in the planning process?

Marian Spain: We make our decisions based on evidence and that is what keeps us true to our statutory goals. It also helps us to continue to be trusted. We work on evidence and we make that evidence transparent and available.

Without repeating everything that you just asked Mr Duffy, I do not think the words “statutory consultee” always help us to understand our role. We sometimes find we have to remind people that we are not the decision maker—we are not the ultimate arbiter—and neither should we be. The planning system is quite rightly decided democratically and locally. Our job is to empower and give advice to the planning officers and the planning committees to make the right judgments. That often needs to come from us because of our expertise and, therefore, our objectivity based on that evidence.

On the point you were alluding to that there are others who can become part of the planning system and provide that information and expertise, we know that local authorities are very under-resourced in their ecological expertise—their ecological specialists—and we think that should be corrected. However, if we start to increasingly think of certainly planning, if not necessarily individual decisions, in terms of getting the plan right—which should be, if I dare call it this, a team effort, and not just a job for planning professionals and not just a job for bodies like ours—then the more we can see that place making and plan making brings in a range of expertise and a range of information. That will help it to always feel like it has to be the statutory consultee and the planning authority making the decisions.

There are, of course, particular exceptions where the risk is high, including the risk to human life and human health, which tends to be more dealt with by the Environment Agency than us. For a lot of the things that we are involved in, it does not always have to be Natural England that is the sole arbiter on nature issues.

Blake Stephenson: That is very helpful.

Chair: To clarify your answer, do you feel that you are sufficiently protected from political or commercial pressures?

Marian Spain: Yes, definitely. We make the evidence on which we give advice transparent for exactly that reason.

Blake Stephenson: It is the same question to you, Mr Duffy.



Philip Duffy: Our teams have been involved in some quite high-controversy applications recently. I mentioned the Oxford sewage treatment works; another one is agreeing the Cambridge and south Cambridge water resource management plan, where we had a number of objections outstanding. People promoting those schemes really wanted you just to lift the objection because they wanted to get on with the construction and the homes that they felt were needed in Cambridgeshire. My message on that is that it is not dysfunctional for us to point out these problems. Raising those problems has led to a period of intense work with local partners to improve the solutions. For example, the water credit scheme in Cambridge would not have come about without that. I have not felt under pressure to move on that. I am quite proud of what my teams have been doing on that. My message to them is: be constructive and work with locally elected leaders to try to find solutions locally, but hold your ground on the science and the law, which is what a regulator should be doing.

Q358 **Blake Stephenson:** Who or what are the main blockers to house building?

Eamonn Boylan: The main blocker to house building in the country at the moment is viability. The reality is that we have a market that is not functioning in an optimal way. That is making it very difficult for many developers to bring forward homes that they have planned and are in their pipeline to bring forward. That is one of the key areas that my agency works in: trying to find solutions to schemes that are in planning terms good, in environmental impact terms good, but simply are not deliverable commercially. That is the biggest single barrier facing the market across the country right now.

Marian Spain: I am only partially qualified to answer that because, of course, I do not work in development. However, what I hear from developers is that what frustrates them is the pace that the Chair asked me about a moment ago, but also the certainty. The system at the moment does not always make it clear to a developer exactly what is required of them. If we had a more plan-led system and a more transparent system that we might see through things like environmental delivery plans, so that it is absolutely clear what is needed, the developer can then be clear what choices they have and what investments they will need to make. It also helps us to speed up where we have to give consents.

Where we are sometimes in the firing line or in the hot seat for being perceived as being slow is often where we have not been involved early. We then feel that we are right at the end of the process and we are having to make judgments on a development plan that is almost already decided. That is why we are keen to be able to get in earlier and give more certainty and move to consenting a plan, not consenting an individual project.



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Philip Duffy: The hardest thing for the country will be water supply in the next 50 years. We published our water resource management framework. We are 5 billion litres a day short by 2050. That is a huge amount of water to find. If we do not find that water, we will not have good-quality chalk streams, we will not deal with the pollution of rivers and we will not have enough drinking water or industrial supply of water. We have to grip that through robust planning.

There is money in the next price review that Ofwat agreed, with £2 billion going towards strategic solutions there. However, we will have to have a big conversation with people about how they live, how their homes are fitted out, what equipment is in their homes, and the acceptability of recycled water use, and that will be a growing constraint. It is a real environmental constraint on growth around the country and something we have to take very seriously.

Blake Stephenson: Particularly in the east of England.

Q359 **Pippa Heylings:** Ms Spain, we heard you talk about how much the nature protection legislation and rules have held sway throughout planning and what is happening with house building. The Office for Environmental Protection has said that the Planning and Infrastructure Bill would represent a reduction in the level of environmental protections provided by current environmental legislation, and there are particular concerns around the environmental delivery plans that you referenced. Do you agree with the OEP's assessment that as currently drafted the Bill would represent a regression in environmental protections?

Marian Spain: To step back and give a context to the answer I am going to give, we support the intended impact of the Planning and Infrastructure Bill. A number of the issues that developers now need to deal with, including water quality and quantity as we have just heard about from Mr Duffy, are increasingly difficult—well-nigh impossible—to be dealt with within a single development envelope and well-nigh impossible to be dealt with by a single measure. The idea of being able to use more strategic solutions is one we support very strongly. We have run a number over the years so we are confident that they work and they have the desired impact, and we believe we need more of them.

As the Bill progresses through Parliament, people will be considering whether it gives enough certainty on when those solutions will be applied. The Bill does not remove the basic protections. It does not take away any of those species and site regulations that I tend to be thinking about, so those basic protections are still there. The issues that OEP is very helpfully exposing, as are a number of ENGOS, is that while we need to have the slightly more risk-based and more dynamic system I was talking about, we also need to make sure there are safeguards and tramlines so that it is a constrained risk. The protections will remain, but to do more for nature and deal with those bigger, more strategic issues, we will have to take a slightly different risk appetite on how we think about these things going forward.



Q360 **Pippa Heylings:** What is your recommendation to the Committee on that? What would a recommendation for the risk appetite look like?

Marian Spain: One of the fundamental issues is that through the Bill, with the decisions that are made going forward on environmental delivery plans and then in the implementation of those plans through the nature restoration fund, we need to maintain the environmental principles, which are, of course, embedded in law. All Government Departments need to maintain the principles of polluter pays, precaution, protection first, and tackling the impact at source. Those environmental principles will bring in a number of the safeguards that people are rightly seeking.

Of course, the second issue is that the ultimate backstop is that the Secretary of State will make the decision. Natural England will write the plans and the Secretary of State will decide. He will be bound by environmental principles, but what many people are also looking for is whether there is enough certainty that the plan will definitely be an improvement. That is the fundamental issue that Natural England will consider. We don't see the plans being universal. They will not apply to all situations. There will be some sites that do not merit that. It is about having certainty that we will definitely see a significant improvement.

Q361 **Pippa Heylings:** That leads nicely to my next question. We have heard concerns as a Committee, which are shared among many environmental NGOs and other stakeholders, that Natural England would in a way be marking its own homework around the environmental delivery plans and the nature restoration fund. You are the regulator, the statutory consultee, the deliverer, the monitor and the enforcer. Is there a need for some independent oversight that would ensure what you have just said? Where does that certainty come from? Can Natural England do it every single step of the way and mark its own homework?

Marian Spain: It does give Natural England considerable discretion and considerable power, if I dare put it that way, as the body that writes the plans. Those plans, however, will be made on evidence. That evidence will be transparent and those plans will be put through scrutiny. There will be a consultation phase. We are not the sole arbiter and, as I have already said, ultimately the Secretary of State decides using the environmental principles.

The other issue for us is that it will not just be us. To reiterate the point I made earlier, Natural England is not the decision maker in planning. Ultimately, the environmental development plans will be in place. They will not, as I said, be universal, but they will be in place in places where we believe, and the Secretary of State agrees with us, that they will lead to a significant improvement. There is still, however, a choice for a developer as to whether or not he uses that system or whether he continues to do on-site mitigation. There is also a choice for the planning authority in granting planning permission to satisfy itself that the plan will be applied fully. It is not solely down to Natural England.



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Q362 **Pippa Heylings:** Can you understand the concerns about whether there will be any independent oversight? You are designing, delivering and monitoring the plans, and the Secretary of State, with all the capacity they have, will be the ultimate arbiter if necessary. Do you understand that concern?

Marian Spain: I recognise the concern. Of course, part of the job of bodies like ours is to be an objective and evidence-based environmental regulator. In some ways, it is an extension of the role we already play as the licensor of protected species, for example, and the grantor of consents for work on protected sites. We have that role already, and I think many of our ENGO colleagues welcome the fact that it is Natural England that will be playing that role because of our objectivity and our statutory purposes to further nature conservation.

Q363 **Pippa Heylings:** Mr Duffy, I have a similar question around the EDPs. Do you expect to be involved in the design and delivery of the environmental delivery plans and, if so, what resources do you have to fulfil that role?

Philip Duffy: It will be led by Natural England. We will input particularly in the water environment and water ecology. That is normally our role. We will support on those aspects of it.

A general point is that in the Environment Agency we are, I think rightly, sceptical of some house builders. We want to make sure that they do what they promised. If you look at the water credit scheme in Cambridge, we are making sure that the water efficiency is actually being delivered before we release the credit. We have reversed that. That is because we have seen, I am afraid, a lot of broken promises about water efficiency. Consumption has not fallen particularly in recent years and that is a worry for us. To get down to 110 litres per person per day is a big reduction from 140, so we are trying to make sure the action comes up front before we move on our objections.

Q364 **Pippa Heylings:** Absolutely. That is an innovative scheme, so we have to know that you can do that before you can release the other homes. It is a key concern in my South Cambridgeshire constituency.

Many believe that the nature restoration fund works. It was originally designed for nutrient neutrality, and you could even look at water neutrality. Local plans were not normally about spatial land use management, but now they have to be. If we are going to have full nature restoration—this “cash to trash” approach—how do you bring in early testing and monitoring and who is doing that before you fully release?

Philip Duffy: I will come in on water and nutrient neutrality. If the system was working properly, you would not be seeing deterioration in the water framework status of protected sites. You would have seen investment from the water industry in alternative sources of water supply, and efficiency and improvement in the performance of wastewater treatment plants, such that the phosphorus and nitrate levels



that are eutrophying those areas would be stable or falling. We have got ourselves into a situation where we have nutrient neutrality, and we have one water neutrality in north Sussex areas, because that has not worked. We are currently in intense discussion about how we can make sure there is sufficient clean and plentiful water in the Arun SAC to meet requirements, and about whether we are happy with Southern Water's planning for alternative water supply. So far the answer is no, so we are still going through that process with it.

Where we want to get to—and I think this will be core to the work that Sir Jon Cunliffe is doing—is making sure that those with water planning cycles actually perform. There are times when the right answer for dealing with, say, phosphorus is an upgrade in the wastewater treatment plant, not a grant from the nature restoration fund. Of course, there may be other reasons why that would be good for biodiversity and for species variety. There are other co-benefits we can talk about in flood risk and water quality, but we need to be clear that we should take an evidence-based approach to whether this is actually working or not.

I pay credit to my colleagues in Natural England for defending special protected sites through this programme. It has been an innovative programme, but it is revealing something about the planning cycle that is not right. That is the next thing we have to fix and that is our focus right now.

Marian Spain: To continue that, the nutrient mitigation scheme is not the long-term solution. It is a temporary solution while we deal with the crisis. As Mr Duffy said, it has triggered other things. It has triggered further investment. It has triggered Government to be looking at the farming rules for water recently, for example. The environmental delivery plans will allow us to do that in a planned way. We will not wait for the crisis. We are starting to think about what an environmental delivery plan will look like where, for example, air-quality issues are one of the environmental limits.

I am hopefully echoing something that Mr Duffy has said already. Where environmental regulation works well, it does not stop development happening. It provides a backstop to make sure that development is done in a way that does not breach environmental limits, put in wider environmental issues, put public health at risk, and so on. I think the EDPs will allow us to do that in a more planned and transparent way and give up to 10 years of certainty for developers about what the issues are that they will have to deal with if they want to develop in an area where there is an EDP in place.

Q365 **Pippa Heylings:** Thank you. Concerns about the strategic, long-term effectiveness of these measures include what happens at the end of the 10-year period for an EDP—the cliff edge or not the cliff edge. What do you think should happen following that 10 years? Could they be developed? Are they at risk of being developed at a later stage?



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Marian Spain: Do you mean developed as in—

Pippa Heylings: Could what has been worked on be impacted by coming to a cliff edge at the end of 10 years of an EDP? What guarantees that it will be sustained?

Marian Spain: They might not need to be sustained. They will not all last for 10 years—some of them will have an impact in a shorter time. The ideal would be that at the end of the 10 years the money that developers will contribute to the fund will have done enough to build the environmental resilience so that we have an ecosystem that is back in balance, and that can then observe the environmental pressures of climate change or development or all those other things we are currently concerned about. I don't think that we should assume that an EDP coming to an end is necessarily a failure. They will be reviewed and monitored regularly and, if necessary, they will then be refined and rolled out for a further period.

Q366 **Pippa Heylings:** The concern, particularly around the water cycle, is that according to the Environment Agency's recent report we are looking at things that will need more than 10 years.

Marian Spain: Yes. They will be renewed and refreshed where they are still needed, but they will not necessarily always be.

Philip Duffy: You are completely right, Ms Heylings. We have to start thinking about water infrastructure in much longer time horizons than just a five-year period. Sir Jon Cunliffe said that in his interim review. We agree with it. There is no quick fix in the east of England. These are long-term investments about the vision for the country and what we want to do in those areas.

The other thing that is important is that we need the water industry to do what it has promised it would do. One of the depressing features of the debate around Oxford was that that wastewater treatment plan upgrade was in AMP7—the previous price review work—from Thames Water and was not delivered. We were then having an argument about housing with Oxford city council on something that had been foreseen and planned for but was not done.

One of the reasons why we are very pleased to have the resources to do the 10,000 inspections a year is that we will check that the things that the water industry has promised to do have been done and done properly. That is an important safeguard for the country and for bill payers who are paying for this work. I just wanted to make that point.

Q367 **Ellie Chowns:** I am a little surprised by one or two things I have heard in your answers, particularly from Ms Spain, including the idea that ecological problems could be fixed in 10 years and then no further action will be needed. The specific thing I wanted to pick you up on was when, in your response to Ms Heylings, you used the word "certainty" when you



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were describing your confidence that under the terms of the Planning and Infrastructure Bill there would be certainty of environmental improvement under EDPs. I am very surprised to hear that, because that is contrary to what the OEP's advice says. It is contrary to what the Bill says, and I speak as somebody who was on the Planning and Infrastructure Bill Committee and tabled an amendment to it when we were back in the main House.

Clause 59(4) of the Planning and Infrastructure Bill states: "An EDP passes the overall improvement test if, by the EDP end date"—not even taking into account the fact that there might be overlap problems—"the conservation measures are likely to be sufficient to outweigh the negative effect". That is a much weaker form of language than certainty, so how can you be certain when that is not what the Bill provides for?

Marian Spain: What I should have said is, or my meaning was, that we need that certainty. It is not for me to comment on the detail of the Bill, but many people, including the ENGOs, are pointing out that there are areas where the Bill will be strengthened, which Government will consider as the Bill goes through. I am agreeing with you that we need certainty that the overall improvement will be significant and that in the implementation of the plans we need certainty of their effectiveness and their longevity. I will return to your longevity point in a moment, if I may.

Q368 **Ellie Chowns:** You are now recognising, contrary to your evidence to the Bill Committee a couple of months ago, that the Bill, as it is currently written, does not provide that certainty and, in fact, provides a rolling back on the current projections?

Marian Spain: If I said that at the Bill Committee, I misled you. What I was trying to say was that we support the system the Bill is intending to introduce, but we also recognise that there are areas where people will want to ensure that the Bill is strengthened and that the Bill is robust enough to provide that certainty. I hope that I did not say I could stand by every letter of the Bill. We will obviously continue to give our advice to Government on how to ensure that the Bill is strong enough to give the certainty that we will need to operate effectively and that others will need to have confidence in the Bill.

Q369 **Ellie Chowns:** As it stands, it is a system that dispenses with the mitigation hierarchy and enables developers to use viability concerns to get out of their contributions to the nature restoration fund. Are those two aspects of concern to you?

Marian Spain: They would be, but that is not what I understand the Bill will do. The Bill will not remove the mitigation hierarchy in that, as I mentioned a moment ago, the four environmental principles will still stand in decisions being made on the EDP. What we see with the current mitigation hierarchy is developers and planners will still need to recognise the need to avoid developments that will harm nature sites. That is still in place in the planning system, in the NPPF and so on. I mentioned earlier that the environmental protections, the HRAs and the SSSIs still stand,



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so there is still a significant incentive to avoid and there will also be a significant incentive to developers to avoid having to pay the levy. The levy will create a cost to a developer that they will wish to avoid.

We recognise that if it has been decided that development needs to go ahead that will affect a nature site or a protected site, what we are currently seeing by rigidly still employing the mitigation hierarchy through a choice between mitigation and compensation are suboptimal outcomes. We are seeing money spent on mitigation that has a limited effect—we are seeing money spent on site-by-site mitigation. Having the flexibility—as I mentioned earlier, this will not apply everywhere; it will apply only where the impact will be greater—to use the developer payment, which they would pay anyway under the current regime, to have a greater impact is why we support the principle of the Bill. It is not doing away with the hierarchy but it is applying it in a more flexible and dynamic way.

Q370 Chris Hinchliff: I'm sorry in advance, Ms Spain, but I have a series of questions directed at you. If either of the other panel members want to come in, please do.

I want to pick up the point we have just been discussing about the mitigation hierarchy and go into it in a little more detail. You have just said that you maintain your position that the mitigation hierarchy is maintained through the Planning and Infrastructure Bill. In March, the Chartered Institute of Ecology and Environmental Management stated: "The implications of the Bill is that the mitigation hierarchy...will be circumvented, contradicting long established, internationally recognised and 'tried and tested' environmental best practice and leading to inadequate conservation outcomes. This weakens the ability of the system to prevent environmental harm at its source." Can you explain how the introduction of environmental delivery plans will alter your approach to applying the mitigation hierarchy compared to the processes followed under the previous framework?

Marian Spain: I am happy to explain that, but just by way of context, of course it is not Natural England that is the decision maker on the application of the mitigation hierarchy. It is the local planning authority. I do not mean that to deny my responsibilities and the advice I will give, but to be absolutely clear it is for local authorities to make decisions on whether a development should be avoided or not. As I was just explaining, the reason we think the Bill measures are welcome—without that being a comment to say that every single measure in the Bill is exactly as many people would wish to see them—is that the measures overall will have a major impact on nature restoration in this country.

I risk repeating myself, so feel free to stop me, but to try to answer the context of your question, at the moment we see site-by-site decisions being made that require developers to invest a lot of money in assessments and surveys. We see a lot of money then being spent on mitigations that are not always of the scale that they need to be to



address the problem. I think it is the point I have made several times to this Committee: the context in which we all must make judgments over the coming months and weeks is whether we think that it is better to use the investment to spend on nature restoration and tackling fundamental underlying environmental issues in support of nature, rather than seeking to simply protect in the way we protect now. That is what I meant when I said we must think about our risk appetite and our understanding.

One other answer, which in part also answers Ms Chowns' point, is that many of the people I talk to, including the organisation you mentioned and many of the ENGOs, are increasingly starting to understand together that it is not necessarily a universal application. There will not be EDPs everywhere. There will not be EDPs for all issues. They will be applied in the places where nature will benefit from that more strategic approach.

As an example of a scheme we have been running for several years that does exactly that, the district level licensing scheme for newts has meant that the funding that a developer would have previously paid to do their own on-site survey and create their own on-site ponds is now not only quicker and simpler for them—not cheaper but quicker and simpler—to pay into a centralised fund, but it is also having a greater impact on newts, because there is a leverage that we can use by gathering developer contributions and building a far greater volume of newt habitat than would have been done by an individual developer.

In the places where the impact will be greater, the EDPs will work, but I do not believe they will work everywhere. The other comment I perhaps should have made about the mitigation hierarchy is that in making decisions about the EDPs we can exclude certain habitats and certain species. An irreplaceable habitat or one for which we do not believe that mitigation and compensation will ever be adequate is again why I feel that the protections are maintained. It will not apply everywhere and it will not apply to everything.

Q371 Chris Hinchliff: I will explore that in a little more detail. It seems to me that there is a distinction between the mitigation hierarchy, which says to avoid harm in the first instance, and, as I think we would all agree, looking at a wider scale for how best to achieve improvements. But I do not think those are necessarily the same points.

To pick up on something you said to Ms Chowns about why you think this will still achieve a mitigation approach, is it accurate to say that, effectively, while the mitigation hierarchy itself is scrapped under the Bill, developers will still be financially motivated to avoid harming the environment as they would want to avoid paying into the levy? So it is effectively moving from a legal mitigation hierarchy to a new financial one. Is that a fair representation of your case?

Marian Spain: Perhaps I will answer the question in a slightly different way. What we are seeing with biodiversity net gain—



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Chris Hinchliff: I would like you to answer the question that way, actually.

Marian Spain: To be blunt, I cannot say what a developer will do, but I can tell you what developers tell me. We are seeing under biodiversity net gain is that increasingly developers are recognising that financially and in terms of certainty it is more advantageous to maintain habitat on site, rather than destroy that habitat and then be required to put in even greater biodiversity net gain. We see that behaviour change happening where we are giving certainty to developers on the implications of the choices they have made.

It is not as simple as saying the mitigation hierarchy will be maintained exactly as it is. There are still the legal, planning policy and financial reasons to continue to avoid, and there are also the safeguards I mentioned, which are that EDPs will avoid, if I can put it that way, places where a habitat is irreplaceable or we do not believe that compensation and mitigation will ever be adequate. The “avoid” will be there.

The judgment that Natural England is making—ultimately Government and Parliament will make this judgment—is about whether we believe the current system of mitigation and compensation, always sequentially, is necessarily giving us the maximum outcomes for nature that we are looking for. Natural England’s view is that we would be better bringing those two things together.

As another example, the way we have operated the nutrient mitigation scheme has been more tied to mitigation and compensation, and the Bill will simplify and speed up that scheme to greater effect.

Q372 **Chris Hinchliff:** To drill down into the point about financial incentives for mitigation as opposed to legal, Alexa Culver, the legal counsel at ecological consultancy RSK Biocensus, has argued that the Bill requires that the levy “must preserve development viability above all else, so it won’t be any kind of financial deterrent to harmful development”, and that the nature levy “is intended to replace site-specific surveys and interventions, meaning developers can proceed to harm without knowing what they are harming” and they “can’t avoid what they don’t know is there”. How do you respond to that?

Marian Spain: Forgive me, I am going to forget the exact phrase you just used, but the scheme does not mean the surveys do not happen. The difference is that the surveys will be done up front by Natural England using data from a range of sources, including a number of environmental consultancies. It will not be done site by site for the developer. The way I see the Bill is about not changing the rules but finding a better way of applying those rules. The surveys will still be done but they will not be done by a developer at the time of development. They will be done by Natural England up to 10 years in advance.

Q373 **Chris Hinchliff:** Okay. I think that is a really crucial point that a lot of



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the concerns have focused around. You are saying that although it might not be done by the developer, under the new terms of the Planning and Infrastructure Bill sites would be surveyed and we would know what is there, and what would be harmed by the development, albeit under different terms.

Marian Spain: One of the purposes of the environmental development plan is to understand across an area. The area will vary depending on the issues we are dealing with, but let us say it is at county level, as it currently is for newts. We would survey it in advance and understand the risks and the opportunities, rather than an individual site being surveyed at the point of development. We would have a broader understanding of ecological risks and opportunities and the impacts of potential development.

Q374 **Chris Hinchliff:** Throughout the debate around the Bill, Government Ministers have maintained that irreplaceable habitats, such as ancient woodland, do not require protections under the Bill on the grounds that protections in the NPPF will still exist. You have referred several times in your evidence today to protections that will be there in the NPPF. The Wildlife Trust has said that the risk of site destruction from part 3 of the Bill is particularly concerning for irreplaceable habitats that can currently be covered by legal protections, including under habitat regulations and the NPPF. In contrast to the habitat regulations, the NPPF protections are weaker and continue to allow damage to irreplaceable habitats such as ancient woodland. Research published by the Woodland Trust this June as part of their "State of the UK's Woods and Trees 2025" report highlighted that due to loopholes in the NPPF protections, ancient woodlands are vulnerable to deterioration and damage by adjacent development. Who do you feel is right in this?

Marian Spain: I think it is a subtly different question from the impact of the Planning and Infrastructure Bill. The question being debated there is whether the NPPF policies are strong enough. Ancient woodland is not protected by law; it is protected by policy. I think that is a different matter for debate.

Q375 **Chris Hinchliff:** To pick up on that point, on protections, the NPPF states that "development resulting in the loss or deterioration of irreplaceable habitats...should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists", but a lack of official guidance on what is wholly exceptional or what considerations should be taken into account has created a grey area that can be and is exploited. From your Natural England's perspective, in what circumstances would you say the public interest in development overrides the protection of ancient woodlands or veteran trees?

Marian Spain: I do not think that is a matter for me. I will repeat what I said a moment ago: the NPPF provides a strong presumption against development on ancient woodlands. That is ultimately a matter for the local planning authority to decide.



I will refer you to a comment I made much earlier in this Committee. I think one of the things that will help to give more of that certainty and confidence will be if we have a stronger spatial development strategy and stronger local plans that respect strategies such as the local nature recovery strategies, which will identify sites of ancient woodlands, for example. Having that plan-led system will give more confidence to those who are concerned, but also more certainty to developers that ancient woodland is not going to be given planning permission. I think that is a very different consideration than the Planning and Infrastructure Bill.

Q376 Chris Hinchliff: You do not have concerns as Natural England that relying on protections under the NPPF for ancient woodland would be insufficient?

Marian Spain: I did not say that. What I said is that the Planning and Infrastructure Bill, with the existence of environmental development plans, will not affect the NPPF guidance. The two are different things and I think the answer is to work those through the plan-led planning system. A strategic planning system that takes more account of nature up front is needed to deal with those concerns.

Q377 Ellie Chowns: On the point about surveys, you said there will be area-wide surveys—say, county-wide surveys—that will replace and obviate the need for site-specific surveys. Unless ecologists survey every potential development site within a county, is there not a serious risk that specific sites that have specific populations of specific endangered creatures or habitats will not be captured by such large-scale surveys? You could have a site that was hugely important for hazel dormice within that particular county, but unless it happened to be surveyed as part of the county-wide survey, nobody would ever know because the survey would not be done before it was built upon.

Marian Spain: If it is a site that is protected by law or a species that is protected by law, that data will already be held, recognised in the local nature recovery strategies and considered within a relevant environmental delivery plan. We do not have a system at the moment that surveys every single potential site and developers do not have to survey every single thing on site.

It might be misleading to feel that we are replacing a perfect system with a less than perfect system. We are replacing a system that has many limitations with a system that will improve those limitations. Ultimately, of course, it is a matter for Government to decide whether to change the law and for Parliament to scrutinise that law. I can give you my advice as an ecologist and a nature regulator.

Q378 Ellie Chowns: Would it not be better to do a site-specific survey and then use the scheme if appropriate for that species, such as district-level licensing, which is possible under existing law, than to do no survey at all, which is what the Planning and Infrastructure Bill foresees?



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Marian Spain: As I have said already, environmental delivery plans will not apply everywhere or to everything, but for the issues they will apply to, if it were a dormice environmental delivery plan, that survey would be done and data would be used. All the best available evidence would be used to inform that plan.

Q379 **Pippa Heylings:** I declare my interest as co-chair of the new APPG for local nature recovery strategies. It is very good to hear you talk about the fact that within the spatial development plan, the local nature recovery strategies will to some extent be doing a lot of the heavy lifting of saying which of the opportunity areas for nature are critical and where we should be looking for them. Would you agree that the Planning and Infrastructure Bill and the NPPF should not be silent on local nature recovery strategies and that, therefore, they should have material weight within the planning system to deal with the issues, and that there is currently a gaping hole there?

Marian Spain: I think many others have made similar comments to that, including the OEP's recent report that if we are going to have local nature recovery strategies, they will have most impact if they become a material consideration—a significant issue—in planning decisions, both spatial strategies and individual cases.

Q380 **Pippa Heylings:** Do you agree that that should be one of this Committee's key recommendations from this inquiry?

Marian Spain: We have given our advice to Government on that and we are on the record as saying that we think LNRs should be a heavy informant of the planning system, and they will be a heavy source that we will draw on for environmental delivery plans. They will be one of those rich sources of local data, and they will also include the wishes of the people living in that area and the opportunities that they see for nature. That is one of the other important things about LNRs: they are not just a data-led system but a community-led system. That is why there is a lot of consultation and engagement in them.

Q381 **Julia Buckley:** Mr Boylan, Homes England is known as the Government's housing and regeneration agency, but how does your organisation split its resources between building new developments and regenerating old ones?

Eamonn Boylan: The primary task for the agency given by the Government is to increase housing supply. That is very clear, and we do that through new build but also through comprehensive place making: not simply delivering housing units but delivering the environmental, social and infrastructure improvements that are necessary to enable people to find those places attractive.

We are working with several local partners on schemes that are looking to reuse existing buildings. Partly that is because it is important for the townscape and the urban planning aspects, but also because of the impacts on embedded carbon, which we are very keen to try to mitigate



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and manage. Our responsibilities around retrofit and support for existing homes are dealt with by other parts of Government. That is not part of Homes England's remit other than that we are operating the cladding safety scheme on behalf of the Government in respect of tall buildings post-Grenfell.

Q382 Julia Buckley: You just mentioned the reuse of existing buildings and turning them into different end uses. What sort of proportion of those 1.5 million homes could be brought about that way?

Eamonn Boylan: Bear in mind that the agency will be directly responsible for a proportion of the 1.5 million, so we will have to extrapolate from that. There is an increasing emphasis on finding ways of reusing existing buildings for all the reasons I just mentioned.

I will give a couple of examples. We are working with Plymouth city council on how we can repurpose the former civic centre rather than demolish it, which was part of the original plan. Can we repurpose it and turn that into high-quality residential accommodation? We believe we can, and we will work with the city council on that.

In Sheffield we are working with the city on a particular project in Moorfoot—if anyone knows Sheffield, you might have seen the ziggurat that stands at the bottom of the Moor. Many people assume that needs to be demolished. We are working with the city and a central development partner to repurpose that and turn it into residential accommodation. That will save around 14,000 tonnes of embodied carbon, as well as achieving a very significant urban regeneration impact in that place.

We provide development finance to a number of developers who are specifically repurposing existing buildings in places such as Ancoats in Manchester, and in Stoke and Wolverhampton.

Q383 Julia Buckley: I was going to ask you about potential incentives. It sounds like you have the strategic ambitions and you can see the carbon value of the refit, but how do we incentivise the developers? You have touched on development finance; are there any other incentives out there for developers to get them to consider retrofitting first?

Eamonn Boylan: The principal incentive that we can offer as an agency is financial—to make certain that we appraise schemes in a way that can promote the reuse of existing buildings. It will not always be possible because the economics of reuse is often quite problematic, to say the least, but we will continue to support developers who are keen to take forward increasing housing supply on that basis using those buildings.

Q384 Julia Buckley: Beyond what you are responsible for with all your expertise, what other incentives do you believe could be brought forward by the market or by other arms of Government if you could wave a magic wand?



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Eamonn Boylan: I am not able to comment on wider policy, but there are certain aspects of delivery, particularly in our urban settings, that lend themselves towards thinking positively about the reuse of existing buildings, not least the fact that if a building exists, the infrastructure to support that building is probably already there, at least in part. One of the big barriers to development—one of the big development costs that contributes to the viability problems I referred to earlier—is the cost of infrastructure to service sites to make them developable for housing or for any other purpose.

Q385 **Julia Buckley:** How do you feel about whether lowering VAT on retrofit products might stimulate the market?

Eamonn Boylan: The argument about the imbalance between the VAT treatment of new build and refurbishment is long running. It is one that we do not engage in directly as an agency, but it is something for Government to determine. There is an uneven treatment for new build, which has a more favourable VAT treatment than retrofit and remediation.

Q386 **Julia Buckley:** Do any of the other panellists have a view about the unfavourable treatment of VAT between new build and retrofitting? No? You're all very polite. We will move on to a different topic.

Mr Boylan, your strategic plan says that Homes England supports biodiversity net gain and blue and green infrastructure, but it does not say how it is doing so. Could you tell the Committee how the commitment is being implemented in practice?

Eamonn Boylan: Yes. We have adopted a number of standards that we are using increasingly across our projects. They are not universally applied yet, but we are certainly moving in that direction. To give you a couple of examples, we are working through a principle that we are describing as "building healthy lives". We issued guidance to developers to guide them through a series of principles around how they can ensure that biodiversity as well as other aspects of sustainability are factored fully into a development.

Some of the schemes that we have done more recently have exemplified that kind of approach. The Lea Castle hospital site in Kidderminster, which we have recently supported, has followed a "building with nature" set of principles, and there has been considerable investment there in blue and green infrastructure. At sites such as Northstowe in Cambridgeshire we will also be using green infrastructure and sustainable drainage systems as augmentation of the environmental impact in those places.

The other thing we are doing is introducing a sustainability passport to schemes. It is my intention to mandate this for all schemes going forward. That will enable us to clearly articulate the environmental outputs that we expect of the development and to work with the developer to make sure—to go back to Mr Duffy's point—that we can



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have evidential proof that those standards and outputs are being delivered as we are working through the scheme.

Q387 **Julia Buckley:** Will that become a prerequisite or an accreditation for the best in class?

Eamonn Boylan: It will become a prerequisite for us to use for our funding.

Q388 **Julia Buckley:** That is fantastic. We heard some feedback from Nansledan about the difficulties of small and medium enterprises—the smaller developers who are trying to get house building—and how best they can get support from Government agencies. What support do you give to SME and micro house builders? What role do you think they could play in developing sustainable homes?

Eamonn Boylan: The reality is that we have seen over recent decades a considerable reduction in the number of small and medium enterprise developers and contractors in the marketplace. We are determined to support those that are still there and to encourage more. My view, and certainly the view of the agency, is that unless we can engage and mobilise small developers, we will struggle to get near the target that we are aiming for. We need them as well as the large volume players.

It is also fair to say—and this is not just for the construction industry—that an awful lot of smaller firms say they find it very difficult to engage with the public sector through procurement rules and all the rest of it. We are introducing new products that are specifically aimed at the SME developer sector. One of the problems that SME developers face is that they effectively might have their entire capital capacity tied up in a single site. It is the first money in and the last money out and unless they can access that, they cannot then move on to a sequential site and therefore business continuity is impaired.

We are developing a small developer accelerator funding package that can be available to SMEs to enable them to draw down funding from us on a long-term equity or debt basis, to then move on to further phases of development. We are keen to explore and work with them on how we can take that agenda forward. We are working with a private sector investment partner on an existing fund specifically targeting small and medium enterprise developers, and that has deployed £150 million across about 60 different financial transactions over the last two to three years. It is gathering momentum.

Julia Buckley: That is really welcome news. If you have not already submitted that in your evidence, would you mind putting that in writing to the Committee? People will follow our inquiry through the webpage and it is a chance to give them a bit of information.

Eamonn Boylan: I am very happy to do that.

Q389 **Martin Rhodes:** I will follow up with a couple more questions. Mr Boylan,



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your current strategic five-year plan says that there is an “indicator to be developed on embodied carbon of Homes England supported development”; how is that progressing?

Eamonn Boylan: We are progressing it and we are now applying that measure through our existing and new programmes. The reality is that many of the schemes that you see coming out of the ground now that we are supporting effectively went through an approval process three or four years ago. We are having to introduce new criteria as we move forward and we are doing that as a matter of urgency, and we will be reporting on our performance in the annual plan. The level of development coming forward under that guidance right now is relatively insignificant, because it has not fed through on the timeline that I described earlier. Over the next two or three years we will be able to report much more authoritatively on progress in that space.

Q390 **Martin Rhodes:** On developing that indicator, why are you looking at effectively a new metric rather than using a pre-existing one such as the RICS one? Why are you not using one that is already established? Why a new one?

Eamonn Boylan: The metric we are using is very much based on the RICS; it just needs to be adapted to enable us to capture the totality of the development activity that is going on in the delivery of homes and in ensuring that the performance of those homes minimises carbon impacts going forward. We will build on what is already there. We are not reinventing the wheel. Bear in mind that this is to evaluate the schemes that we are actively promoting. The RICS standards will be applied across all development; this is simply to ensure that we are supporting schemes and driving the best possible performance in the schemes that we support with public money.

Martin Rhodes: Your metric is effectively measuring other things as well, so it is in addition.

Eamonn Boylan: Yes.

Q391 **Chair:** To clarify that, your job is to bring forward and support the bringing forward of schemes that might not be able to be brought forward without your support. That might be because it is not viable because it is a brownfield site or it is in an area of deprivation where it is more difficult to profitably sell the homes. On that central core purpose, does the embodied carbon environment come into your rationale? Or, if someone is ultimately able to bring forward a scheme that will, with your support, bring housing to an area that needs it, but it might not be profitable, would you overlook the embodied carbon aspect?

Eamonn Boylan: No, we would not. We would not bring forward a scheme that was signalled by either of my colleagues here to have significant environmental impact. We believe that we need to build homes that are sustainable for the future. I use “sustainability” in the broader sense, in respect of not just environmental sustainability but people’s



ability to live sustainable and healthy lives in their homes. We cannot afford to ignore the embodied carbon and we will not.

We will seek to introduce further measures that can help us to achieve the target of delivering homes in a way with a lower carbon impact. That includes the use of modern methods of construction, whereby we are seeing off-site mechanisms of delivering homes with lower carbon impact, and potentially faster than traditional construction methods. Some 25% of the affordable housing programme that we are currently running is being delivered through that mechanism. We will seek to find ways of achieving our carbon objectives, which may differ from scheme to scheme, but we will not ignore them regardless of where the scheme is.

- Q392 **Chair:** I appreciate that in the context of Homes England. Do you think that as a country we need a more strategic approach to supporting some of those methodologies? For example, when we were down in Cornwall we discussed hemp-based insulation, and whether we need more support for the manufacturing sector to be able to bring some of those methodologies forward. Do you think we need a more strategic approach to supporting environmentally friendly, lower-embodied-carbon manufacturing, or do you think it is basically all there and will just happen organically without Government intervention?

Eamonn Boylan: Clearly it is for Government to determine whether they wish to develop a strategy around modern methods of construction. That is something for the Department and for Ministers. As this Committee will be well aware, the history of modern methods of construction in the UK in recent years has not been a happy one. We have seen a number of ventures into the marketplace that have been ultimately unsuccessful. Partly that is because people are trying to introduce effectively a production line methodology to deliver products into a very cyclical market.

Achieving stability in the marketplace, which is certainly what I think some of the measures in the spending review will help us to step toward, will be the most important contribution we can make to try to encourage people to invest again in those methods of construction. That is the reality of where we sit. It will be for Government to determine whether it is more appropriate for a national strategy.

- Q393 **John Whitby:** Do you believe that your respective organisations have the necessary skills and resources to deliver or implement the Government's 1.5 million homes target and nature targets?

Eamonn Boylan: From Homes England's perspective, we do have the professional skills that we need. I am confident that we can deploy those skills, as has been described earlier, in conjunction with partner agencies, to help to deliver that number. That is not to say that there is capacity in the marketplace to do all of that, but the direct answer to your question is yes, I am confident that we have the skills and capabilities that we need.



Q394 **John Whitby:** Is the Environment Agency comfortable with that?

Philip Duffy: The answer is partly. We have a number of very rare professions that we need to do this job effectively. A good example of that is geomorphologists who understand about where paleochannels are and the stability of landform. It sounds a very rare thing to do, but you need that to make big decisions about where you put housing and infrastructure, and we are in short supply of those. We have done okay recently with recruiting ecologists. We have managed to staff up our water and farm inspection teams pretty well, but we are looking to create more structured professions, and that is a pay issue that we are discussing with our trade unions in some areas.

On resources overall, I mentioned earlier we are at flat cash since 2017 on our planning function, at about £8 million a year. We are looking keenly at what MHCLG are proposing for bringing in other ways of doing cost recovery for town and country planning applications. We do about 830 DCO or NSIP applications a year, mainly on the larger sites or big infrastructure, and we can charge for our services there. We cannot on the more routine products, so we do not need a huge amount more, but we need to spend a bit more money on things such as IT. Some of my teams, particularly post-covid in the south, see a lot of applications and they are under a lot of pressure.

Q395 **John Whitby:** Ms Spain, your organisation has had some pretty severe budgetary and staffing cuts in recent years. How do you plan to meet increased responsibilities, such as EDPs,, with a smaller organisation?

Marian Spain: Our organisation has grown over the last five years. We shrunk slightly this year in the number of staff, but our overall budget has continued to grow, because when new duties like preparing for EDPs come along, we receive new money.

Part of my answer echoes very much what Mr Duffy was saying. We are going through a workforce reorganisation, so we are moving all our staff. At the moment a lot of our staff spend a lot of their time on reactive casework—individual planning cases, as we said earlier—and we are moving them and retraining them to start to work more on the strategic solutions. We have the ecological skills but it is about moving people to work in a different way. We have enough staff already who have been working on schemes such as nutrient mitigation to be confident that we can retrain, so it is about redeploying staff.

We still do not know what next year's budgets will look like, or exactly what the spending review will bring. We are also a little, as you said, reliant on cost recovery to a greater extent, including for the implementation of the Planning and Infrastructure Bill. We will be reliant then on cost recovery from the developers who wish to participate.

My other comment almost echoes what my colleague said a moment ago. The other way to look at it is that we collaborate and work together,



share the skills and play to our strengths, not all trying to duplicate effort. I also echo a comment I made earlier that Natural England cannot do this on its own. We will also need to rely on our partners in the planning authorities and in the environmental NGOs, the Wildlife Trust and so on, who have a lot of that local expertise and knowledge. We also work with and through others as we prepare for our new roles.

Philip Duffy: I have one further comment, if I may. We are very dependent on the capacity of local government for many of these areas. In particular, things such as surface water flood risk modelling is a demanding occupation, quite technical, and there are very few people who can do it. We have discussions with some of our colleagues in professional bodies, such as IEMA. It is about how we can support local government to get the skills they need, because that washes on to us if they cannot meet their requirements. We have done some work recently with the Mayor of London with surface water flooding. London boroughs are really struggling to get people who can do flood risk assessment properly. That is a good example of a skills shortage they have, so there are some concerns there about local government.

Q396 **John Whitby:** You mentioned other organisations and the skills required. What are the exact skills and resources that Natural England staff will need to sufficiently implement and monitor environmental delivery plans and the nature restoration fund?

Marian Spain: We will rely on existing public sources of data, including those that are in the LNRs. We will rely on environmental consultancies that already do quite a lot of the site level surveys. We will rely on the data they bring in and we will also, as I mentioned, look to work with environmental NGOs to make sure we have comprehensive understanding to inform the plans.

Again, I echo exactly what Mr Duffy said: the other challenge for us is whether local authorities are able to use the new resources coming towards them to improve the level of ecological understanding in their planning officers. They do not necessarily all need to employ deep experts but they need to be intelligent customers of the environmental experts that our organisations will tend to be the employers of, and to understand the advice they are given and make judgments based on that advice, rather than relying solely on their own internal knowledge.

Chair: Thank you very much indeed Mr Boylan, Ms Spain and Mr Duffy for the evidence you have provided today. We are very grateful for the contribution in what has been a very detailed and useful session.