

## Submission from Wildlife and Countryside Link to the Secondary Legislation Scrutiny Committee on the Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023 (SI 2023/341)

### Background

1. The Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023<sup>1</sup> were laid under the negative procedure on 23 March 2023, under sections 105(4) (5) and 143(1) of the Environment Act 2021. The regulations set out the procedure to be followed in the preparation and publication, review and republication of Local Nature Recovery Strategies (LNRSs).
2. LNRSs, legislated for in the Environment Act, are documents setting out spatial strategies for nature's recovery in a local area. The laying of the regulations has been accompanied by the publication of statutory guidance for local authorities on what to include in a LNRS.<sup>2</sup>
3. LNRSs have an important role to play in delivering on the targets set out in sections 1 to the 7 of the Environment Act<sup>3</sup>, and the commitment to protect 30% of land for nature by 2030.<sup>4</sup> It is important that these regulations, and the accompanying statutory guidance, achieve their policy objectives.

### Questions for clarification: Consideration of species

4. The wording of the Environment Act makes it clear that LNRSs should give equal consideration to both sides of the nature recovery coin – habitats and species.<sup>5</sup>
5. In order to ensure the species aspect receives full consideration, eNGOs have recommended that a species 'expert hub' be set up to form part of the LNRS preparation process.<sup>6</sup> This expert hub would identify a national priority list for species groups and provide advice for individual LNRSs about what their local species priorities could be, helping LNRSs to contribute towards the Environment Act target to halt the decline in species abundance by 2030. The regulations and guidance do not include a species expert hub, as part of a wider omission of species consideration from the regulations governing the preparation of LNRSs. Whilst direction to take reasonable steps to identify local nature sites is given to authorities through regulation 6, there is no corresponding regulation requiring efforts to identify local key species considerations. **Why has Defra decided not to progress plans for a species expert hub?**
6. This disproportionate weighting between habitats and species can also be found in the statutory guidance on LNRS content. The guidance goes so far as to explicitly state that LNRS preparation should focus on habitat.<sup>7</sup> This is unhelpful. Whilst habitat-focused approaches will deliver benefits for many species, alone they will not be sufficient to meet the Environment Act target to halt the decline in species abundance by 2030. Considerations that go beyond habitat type, from the geology of sites to local species

<sup>1</sup> <https://www.legislation.gov.uk/uksi/2023/341/made/data.htm#f00008>

<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1146160/Local\\_nature\\_recovery\\_strategy\\_statutory\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1146160/Local_nature_recovery_strategy_statutory_guidance.pdf)

<sup>3</sup> <https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>

<sup>4</sup> [https://www.wcl.org.uk/docs/WCL\\_2022\\_Progress\\_Report\\_on\\_30x30\\_in\\_England.pdf](https://www.wcl.org.uk/docs/WCL_2022_Progress_Report_on_30x30_in_England.pdf)

<sup>5</sup> See section 106: <https://www.legislation.gov.uk/ukpga/2021/30/section/106/enacted>

<sup>6</sup> [https://www.wcl.org.uk/docs/assets/uploads/Link\\_position\\_statement\\_species\\_in\\_LNRSs.pdf](https://www.wcl.org.uk/docs/assets/uploads/Link_position_statement_species_in_LNRSs.pdf)

<sup>7</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1145198/Local\\_nature\\_recovery\\_strategy\\_statutory\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1145198/Local_nature_recovery_strategy_statutory_guidance.pdf)

abundance data, are also essential for species health. The focus on habitat in the published regulations and guidance narrows the range of evidence that will inform LNRSs, to the likely detriment of LNRS outcomes. **How will Defra encourage LNRSs to consider factors critical to species abundance, beyond habitat type, given they are not fully set out in the regulations and guidance?**

### Questions for clarification: Weight of LNRSs in the planning system

7. The regulations impose a number of duties on local authorities which will help the successful preparation of LNRSs, from engagement with other authorities covered by an LNRS to consultation on strategy contents. However, they omit the most consequential duty – a requirement to deliver the objectives of the local nature recovery strategy through the relevant local authority’s development plan.
8. Under the wording of the Environment Act, authorities are only required to have a general regard to LNRSs in making planning decisions, a very weak duty. Attempts to amend the Act during its passage through the Lords in 2021 to require a stronger duty were resisted by Ministers.<sup>8</sup> The continuing omission of a requirement to incorporate LNRS objectives into local authority development plans, and thereby require close consideration of them in the planning decisions made under that plan, opens the door to LNRS failure. The absence of such a duty means that a LNRS could map sites essential to nature’s recovery in a local area, only for the local authority to allocate these sites for development. A lot of time and effort could be wasted and opportunities to recover nature on the ground missed.
9. An effort to rectify this is being made through amendment to the Levelling Up & Regeneration Bill. Committee stage amendment 184ZA<sup>9</sup> proposed that local planning authority development plans should incorporate such policies and proposals as will deliver the objectives of the LNRS. On 27.03.23 the amendment was debated in the House of Lords, with the Bill Minister pledging to reflect on the case for greater planning weight for LNRSs.<sup>10</sup> **Will Defra set out the reasons why it has to-date resisted attempts to give LNRSs greater planning weight, along with its assessment of how a lack of regulations conferring material planning weight will effect LNRS outcomes?**

### Questions for clarification: Connectivity

10. It is essential that LNRSs integrate together, connecting up important sites for nature across England to form a functioning national Nature Recovery Network<sup>11</sup>, providing “*more, bigger, better and joined up*” space for nature as recommended by the Lawton Review of wildlife sites.<sup>12</sup> This is the central connective vision behind the LNRS sections of the Environment Act<sup>13</sup> – of LNRSs cohering together to provide a network of connected wildlife-rich places, spanning the country. The Nature Recovery Network concept is not explicitly mentioned in the regulations (and only fleetingly referred to, in non-capitalised form, in the statutory guidance). **Why has Defra largely omitted the national, connective aspect of LNRSs from the regulations and guidance?**
11. The statutory guidance takes a prescriptive towards what sites should be included in the habitat map that will form an important part of each LNRS. Page 9 of the guidance states

---

<sup>8</sup> [https://www.wcl.org.uk/docs/assets/uploads/LNRS\\_Amendment\\_to\\_Environment\\_Bill\\_Link\\_briefing\\_May\\_2021.pdf](https://www.wcl.org.uk/docs/assets/uploads/LNRS_Amendment_to_Environment_Bill_Link_briefing_May_2021.pdf)

<sup>9</sup> <https://bills.parliament.uk/publications/50497/documents/3200>

<sup>10</sup> <https://hansard.parliament.uk/lords/2023-03-27/debates/C271DFE5-FD43-4717-82ED-10D4FF01D369/Levelling-UpAndRegenerationBill>

<sup>11</sup> <https://www.gov.uk/government/publications/nature-recovery-network/nature-recovery-network>

<sup>12</sup> [https://webarchive.nationalarchives.gov.uk/ukgwa/20130402170324mp\\_/http://archive.defra.gov.uk/environment/biodiversity/documents/201009space-for-nature.pdf](https://webarchive.nationalarchives.gov.uk/ukgwa/20130402170324mp_/http://archive.defra.gov.uk/environment/biodiversity/documents/201009space-for-nature.pdf)

<sup>13</sup> See statements from Ministers during the passage of the Environment Act, for example: [https://hansard.parliament.uk/Commons/2020-11-19/debates/6fcd054-e58e-491b-928f-8d7cf728f2f/EnvironmentBill\(NineteenthSitting\)](https://hansard.parliament.uk/Commons/2020-11-19/debates/6fcd054-e58e-491b-928f-8d7cf728f2f/EnvironmentBill(NineteenthSitting))

that only existing local wildlife sites, areas of irreplaceable habitat and other areas identified by the Secretary of State as being of particular importance should be included in a habitat map, going on to say that authorities “*should not map any other areas*”. This prescriptive approach, omitting priority habitats and other sites from this part of the LNRS process, could constrain LNRS teams from mapping sites for the purposes of connectivity. **Why has Defra taken a prescriptive approach excluded priority habitats from the habitat map requirements in the statutory guidance?**

12. Regulation 19 requires local authorities to publish adopted LNRSs on their website. Whilst the commitment to transparency is welcome, the publication of LNRSs on a host of different websites will make access to the environmental information they contain more difficult, especially at a national level. A national online presence, bringing all LNRSs into one platform, would help connectivity between LNRSs to evolve, as well as making it easier for businesses and people to access LNRS priorities and to seek to contribute to them. Such a shared digital platform could evolve to be interactive, allowing data to be regularly and easily shared between LNRSs, to the benefit of nature recovery as a whole. **Will Defra commit to providing a national online platform for LNRSs, to boost connectivity between them?**
13. Greater connectivity between different LNRSs will need to be secured by sufficient funding from central Government, both to provide a national online platform and to compensate authorities for the costs incurred by LNRS preparation.<sup>14</sup> **When will Defra publish a full financial settlement, confirming central Government support for authorities preparing LNRSs?**

**13 April 2023**

## **Response from the Department for Environment, Food and Rural Affairs**

[M]uch of the briefing does not directly relate to the Local Nature Recovery Strategy regulations but instead focuses on wider questions about how LNRS implementation will work. [We] have, however, tried to respond to the points raised and highlighted where there are links to the regulations.

### Consideration of species

During the piloting of LNRSs in 2020-21 some stakeholders expressed concern that it was not sufficiently clear that recovery of species was being given enough weight within the process being piloted. We have taken a number of steps to address this concern for roll-out, primarily in LNRS statutory guidance.

Paragraph 37 in the statutory guidance explains that:

“Whilst local nature recovery strategies should consider both habitats and species this guidance refers more often to habitats. This is because habitat types give a helpful indication of an area’s general environmental characteristics including which species it is likely to support and what environmental benefits it may provide. Responsible authorities should refer to habitat types throughout their statement of biodiversity priorities to help link them together and connect the statement to the local habitat map.”

Paragraph 44 in the statutory guidance goes on to explain that:

---

<sup>14</sup>[https://www.wcl.org.uk/docs/assets/uploads/Link\\_policy\\_briefing\\_Making\\_Local\\_Nature\\_Recovery\\_Strategies\\_deliver\\_for\\_nature.pdf](https://www.wcl.org.uk/docs/assets/uploads/Link_policy_briefing_Making_Local_Nature_Recovery_Strategies_deliver_for_nature.pdf)

“Responsible authorities, with Natural England’s support, should seek to:

- identify the existing or potential habitats considered to be either locally or nationally important and the practicality of improving existing areas’ condition, or creating new areas of these habitats
- identify the existing or potential species (or groups of species) in the area that the strategy could make a particular contribution to enhancing or recovering, and assess the practicality of creating or enhancing habitats to support this.”

Together these two paragraphs:

1. explain why reference to “species” appears less often in the statutory guidance than “habitat”,
2. place an equal emphasis on what is actually required in relation to species and habitats and
3. creates an important role for Natural England in providing advice to responsible authorities on species recovery.

Natural England is government’s nature advisor and as such is well placed to provide advice on species recovery to responsible authorities. The LNRS regulations also make them a “supporting authority” and give them considerable influence in the preparation of all LNRSs across England – an example of how the regulations and statutory guidance have been designed to work together. Natural England are currently considering how best to provide consistent advice on species recovery across England, including how to enable and encourage environmental NGOs to contribute their important expertise.

Following the pilots some environmental NGOs suggested that Government should provide funding to boost their organisational capacity to resolve any perceived underrepresentation of species recovery in LNRSs. Government believes that the approach we have taken in legislation and statutory guidance is considerably more robust as it has legal force that advice from subject matter experts would not on its own. But in any event, funding for NGOs would not be something that Government would look to set out in legislation (or statutory guidance).

#### Weight of LNRSs in the planning system

The scope of the LNRS regulations is established by section 105(4) of the Environment Act (2021) which states that:

“The Secretary of State may by regulations make provision about the procedure to be followed in the preparation and publication, and review and republication, of local nature recovery strategies.”

This makes clear that the Secretary of State does not have powers through these regulations to make requirements regarding how LNRSs should be delivered – through the planning system or otherwise. Government has, however, been clear from the outset that LNRSs have been designed to play a role in the planning system. When Government announced its intention to legislate for LNRSs it was stated that:

“We envisage that LNRSs will inform the town and country planning process by providing an important source of evidence to support plan-making, and underpinning actions local planning authorities or neighbourhood planning groups choose to take to protect and enhance biodiversity in their areas.”

Section 102(5) of the Environment Act requires all public authorities to “have regard” to relevant LNRs when complying with their duty to conserve and enhance biodiversity. It also places a duty on Government to provide guidance specifically to local planning authorities on how they should “have regard” in their capacity as such authorities. Government’s Environmental Improvement Plan expands on this commitment to state that:

“It is important that LNRs have weight and meaning across a range of government policies. We will set out in guidance how LNRs should be reflected in Local Plans so that opportunities for nature recovery can be properly integrated into the land use planning system. Working with the new requirement for Biodiversity Net Gain, this will help the planning system play a more proactive role for nature and the environment.”

LNRs and what role they might have in the planning system in future has been discussed on a number of occasions as the Levelling Up & Regeneration Bill has proceeded through Parliament. Lord Benyon set out the Government’s position most recently during debate in Lords Committee on 27th March. Further relevant amendments have been laid which have yet to be debated in Committee.

### Connectivity

LNRs will play an important role in supporting the development of the Nature Recovery Network (NRN) by identifying the places which could form part of the network if appropriate nature recovery action is taken, and by encouraging this action to happen. The NRN is not referred to in LNR regulations for two main reasons:

1. The NRN is something that the delivery of LNRs would help to achieve, and hence outside of the legal scope for the regulations set by section 105(4) of the Act; and
2. To refer to the NRN the regulations would need to define what the NRN is as there is no existing legal definition – the NRN is policy commitment made in Government’s 25 Year Environment Plan with a broad scope and multiple facets that would be challenging to faithfully capture in legislation.

The statutory guidance does, however, reflect the need for join-up between neighbouring strategies the importance of thinking spatially to improve connectivity by considering where existing areas of particular importance for biodiversity are when proposing where nature recovery effort should be focussed. This is supported by provisions in the LNR regulations which require sharing of information between neighbouring strategies and through the creation of the “supporting authority” role. Natural England will have a particularly important role to play as a “supporting authority” for all LNRs in promoting join-up and maintaining a national overview to ensure that LNRs aggregate effectively together.

Paragraph 22 of the statutory guidance explains that:

“Responsible authorities should take a consistent approach to identifying the other areas of particular importance for biodiversity in their local habitat map, they should include:

- all existing local wildlife sites
- areas of irreplaceable habitat
- other areas identified by the Secretary of State as being of particular importance

This will help local nature recovery strategies integrate well with other environmental and land use policies.”

Paragraph 26 goes on to explain that:

“Responsible authorities should not map any other areas that are not mentioned in paragraph 22 as being of particular importance for biodiversity. This is not to suggest that other areas are not of importance for biodiversity. This is to help establish a nationally consistent baseline of areas whose particular importance has already been recognised and are protected. This will help local nature recovery strategies align well with local planning policy and avoid duplicating with the identification of local wildlife sites.”

This proscriptive approach (which does not encourage the mapping of all areas of priority habitat as “areas of particular importance for biodiversity”) is part of how the statutory guidance lays the foundations to ensure that LNRSs and the planning system can work effectively together.

As stated in government’s consultation response, consultees showed very strong support for LNRSs to be brought together to provide a national perspective. As a result “regulations set broad requirements on the format in which it should be provided to the Defra Secretary of State, so that the key parts of each strategy can be separated out, collated nationally, and made available.” LNRS regulation 17(4) states: “The final local nature recovery strategy must be provided in an editable electronic format which presents all relevant parts separately, or enables them to be separated, so that those relevant parts may be electronically combined with relevant parts of other local nature recovery strategies.”

Government has committed to fund the preparation of LNRSs. More detail will be made available in due course. We are also considering options for central hosting.

**18 April 2023**