

Nicola Gooch on Govt nutrient neutrality plan

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We have one more White Paper to discuss.

This time it is the snappily titled "[Planning Reform Working Paper: Development and Nature Recovery](#)", which was published on Sunday 15 December.

The paper sets out the Government's plans for balancing the country's need to build, with the equally pressing need for nature recovery.

The key thrust of the proposals are in paragraph 13, which is set out in full below:

"13. We want to meet these objectives by taking 3 steps for which the Planning and Infrastructure Bill will provide the necessary legislative underpinning.

a) Moving responsibility for identifying actions to address environmental impacts away from multiple project-specific assessments in an area to a single strategic assessment and delivery plan. This will allow action to address environmental impacts from development to be taken strategically, at an appropriate geographic scale, rather than at the level of an individual project – while recognising the importance of protecting local communities' access to nature and green space.

b) Moving more responsibility for planning and implementing these strategic actions onto the state, delivered through organisations with the right expertise and with the necessary flexibility to take actions that most effectively deliver positive outcomes for nature.

c) In turn, allowing impacts to be dealt with strategically in exchange for a financial payment that helps fund strategic actions, so development can proceed more quickly. Project-level environmental assessments are then limited only to those harms not dealt with strategically."

In essence, moving to a strategic approach to nature recovery managed and delivered by the state - in partnership with private providers - and funded through a nature recovery levy on new developments.

The general idea is that the new system will look something like this:

- A Delivery Plan is drawn up by the appropriate delivery body, which:
 - assesses the underlying environmental issues;
 - Sets out the actions necessary to deal with the environmental impacts from in-scope development at a strategic level;
 - present opportunities for further environmental uplift to contribute towards putting the environment on a path to recovery; and
 - calculates the cost of these interventions and apportion the proportionate costs to relevant developments as they come forward.

- The Delivery Body would be provided with tools to secure outcomes directly where needed, including compulsory purchase powers and the ability to recommend appropriate planning conditions. However, they would be expected to work with private providers and land managers wherever possible.
- Where a Delivery Plan is in place for a specific environmental outcome (or improvement) is in place, a developer would no longer need to secure any site specific mitigation. Instead, they would make a financial contribution into a Nature Restoration Fund, which would be used to fund the actions set out in the Delivery Plan.
- Where there is no Delivery Plan in place, site specific mitigation would still be required.

The case study looking at how this new system might be applied to nutrient neutrality issues, promises:

"41. Under the new approach, where development in a specific area is expected to impact a protected site (as is the case for nutrient neutrality), the Secretary of State may determine that a Delivery Plan for nutrient mitigation, operating at catchment scale, would be more effective.

42. The Delivery Plan will be based on a strategic assessment of impacts and the interventions required to accommodate an agreed level of development, with those interventions linked to incremental phases of delivery (e.g. 150 houses). The Delivery Plan will also include costings for the interventions, and a draft tariff to fund their delivery. The Delivery Plan would be considered and signed off by the Secretary of State. Interventions identified in the Delivery Plan may commence in advance of development coming forward.

43. The individual developer is able to access an online map, in advance of submitting their planning application. This confirms that the catchment is covered by a Delivery Plan. They are also able to access a breakdown of the required contribution.

44. With a Delivery Plan in place, developers no longer need to consider the impact of nutrient pollution in their Habitats Regulations Assessment. Instead, competent authorities would be directed to consider whether the development would have any likely significant effects not covered by a Delivery Plan. If there were any effects not covered by a Delivery Plan, those would need to be assessed and, if appropriate, mitigated.

45. On submitting a planning application, the developer commits to making a Nature Restoration Fund payment prior to commencement of works – at which point any impacts caused by nutrient pollution from the development do not need to be considered through the Habitats Regulation Assessment. Provided no other impacts are screened in and require mitigation measures, they will have discharged the relevant environmental obligations and are free to progress their development through the planning process in the usual way.

46. Using the funds received from developers, the delivery body, working with private providers and other groups, continues to secure the interventions identified in the plan. They deliver interventions in phases, as development comes forward, delivering the required quantum of interventions to ensure positive outcomes over the plan period.

47. Interventions are delivered strategically, with a view both to addressing the impact of development and delivering environmental improvements (with money available above and beyond what is required to address the impact of development).

48. The delivery body publishes regular monitoring data. If objectives are not being achieved, the delivery plan details ancillary actions to be taken (with future developer contributions to the Nature Restoration Fund adjusted accordingly). If there is overachievement of objectives, actions may be scaled back and the payment reduced.

49. This monitoring feeds into wider, business as usual reporting on the condition of the protected Habitats Site and once it can be shown that there will be sufficient environmental headroom to accommodate planned growth (as a result of the actions through the Delivery Plan and any wider action to address other sources of harm), the Delivery Plan may be retired. Developers could then bring forward further development without the need to make a payment since their nutrient pollution is no longer having an adverse effect on site condition. This is in line with current approach, as seen for instance in the lifting of nutrient neutrality advice for phosphorous in Poole Harbour catchment."

It is acknowledged that this will not be straightforward.

The White Paper expressly states that the new system will require:

- Legislative amendments to both the Habitat Regulations and the Wildlife & Countryside Act
- A much more active and interventionist approach to environmental regulation - across all sectors of the economy, not just development; and
- Adopting and implementing Environmental Outcome Reports - which were put on the statute book by LURA.

The Government is also keen not to undermine the emerging private market for encouraging nature recovery - which is critical to enabling development to come forward now (and in the future).

Whilst this new approach might not be straightforward to implement; It would be a much more workable, and effective, solution than the one we have in place at the moment - which doesn't really serve anyone well at all.

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