



Llyr Gruffydd MS
Chair, Climate Change, Environment and Infrastructure Committee
Welsh Parliament
Cardiff Bay
CF99 1NA

Re: Legislative Consent Motion for UK's Planning and Infrastructure Bill
CC: Huw Irranca-Davies MS Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs
Rebecca Evans MS Cabinet Secretary for Economy, Energy and Planning
Julie James MS Counsel General and Minister for Delivery

22nd May 2025

Dear Mr Gruffydd

I am writing to you as Chair of the Climate Change, Environment and Infrastructure Committee as the committee will consider the Legislative Consent Motion for the UK Government's Planning and Infrastructure Bill. As parts of the UK Government's [Planning and Infrastructure Bill](#) directly apply to Wales, and other sections may also have consequences for Wales we wish to raise concerns covered in this letter. In sum, this direct coverage and wider consequences amount to a threat to nature recovery in Wales and will undermine Planning Policy Wales and environmental legislation in Wales.

As the Climate Change, Environment, and Infrastructure Committee and the Legislation, Justice and Constitution Committee consider a legislative consent motion for the Bill, Wildlife Trusts Wales urges a refusal of consent on the following environmental grounds.

Indirect consequences from Part 3

Part 3 of the Bill (Development and Nature Recovery) extends to England and Wales but applies to England only.

Part 3 would empower Natural England to create Environmental Delivery Plans (EDP) covering geographic areas, within which developers could choose to pay towards the delivery of EDP actions instead of discharging Habitats Regulations and other environmental obligations. The Wildlife Trusts and other environmental organisations have raised serious [concerns](#) about these proposals, including the lack of:

- Adherence to the mitigation hierarchy (avoid harm to nature first, then seek to mitigate and only then seek to compensate).
- Stipulation to avoid harm to irreplaceable habitats.
- Sequencing of EDP actions, prioritising avoidance of harm to habitats and species.

- Requirements for each EDP to evidence that it will result in significantly improved environmental outcomes.

The UK Government's own environmental watchdog, the Office for Environmental Protection (OEP) produced [advice](#) agreeing with this analysis, labelling the current proposals as '*environmentally regressive*'. At the time of writing, the UK Government has refused to accept amendments to improve Part 3.

Despite the England-only coverage, this environmental regression could affect Wales. Clause 49 states that an EDP must cover an area in England, or in '*the waters adjacent to England*'. This opens up the possibility of EDPs leading to the degradation of terrestrial, freshwater and coastal habitats adjacent to the Welsh border, with spillover effects for Welsh wildlife. Habitats and species extend across the national border and harm on the English side will result in adverse impacts on the Welsh side. These spillover effects are likely to be particularly apparent in rivers running across the Welsh-English border, including the River Wye and the River Severn, due to the inherently interconnected nature of freshwater habitats. They will also affect cross-boarder SAC, SPA, SSSI and NNR's.

In addition, Schedule 4 of the Bill – which makes enabling changes to the Habitats Regulations 2017 and other environmental regulations to align them with Part 3 provisions – applies directly to Wales, as well as England (see [explanatory notes](#) to the Bill, p133). It is unclear why, as Part 3 is meant only to apply in England, these enabling changes to environmental regulations are also explicitly extended to Wales. This extension amends the flagship Habitats Regulations as they apply in Wales and would seem to open the door to an EDP approach being used in Wales in future. Senedd Members should seek urgent clarification on this point from UK Ministers.

Finally, it should be noted that there have been recent [press reports](#) of a European Commission paper raising concerns that the Part 3 regression could affect the terms of the Brexit Trade and Cooperation Agreement. Given recent concerns from both the [Welsh Government](#) and [opposition parties](#) in the Senedd about the UK Government failing to fully consider Welsh interests in dealings with the European Union, Senedd Members may want to explore these implications further.

Direct impacts from UK Government Bills new clauses 44 and 45

In April the UK Government tabled their own [amendments](#) to the Bill, to use it as a vehicle for amending the Planning Act 2008, applying to both England and Wales. The UK Government new clause 44 removes the Planning Act 2008 section 42-49 requirements for Nationally Significant Infrastructure Project (NSIP) developers to enter into pre-application consultations with a set list of consultees, including any '*county council, or county borough council, in Wales*'. The UK government's new clause 45 replaces this requirement to consult with a requirement to 'have regard' to guidance from the Secretary of State on engagement.

The replacement of a clear duty to consult with a much weaker requirement to have regard to currently unspecified guidance will reduce community and expert input into NSIP projects, increasing the risk of environmental harm. Pre-application stage engagement can be crucial for identifying and ironing out potential environmental problems at an early stage, avoiding harm to nature. The dilution of this engagement opens the door to environmental and community harms being overlooked as projects progress.

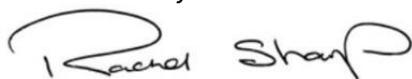
The UK Government has argued that this change is required to reduce NSIP delays. This is a false premise. [Research](#) conducted by Cavendish in 2024 looked at Development Consent Order (DCO) consent times from 2011 to 2023 for NSIP projects. It found that: *'For the first 70 projects going through the DCO process (which covers applications accepted for Examination between July 2011 and June 2017), the average length of time taken from application acceptance to the Secretary of State's decision was around 505 days. For the 65 DCOs that have followed since, the picture is quite different.'*

The pre-application process and the space it gives to nature were in place in an identical manner throughout both periods. What changed from 2017 was not a change to pre-application stages but, in the words of Cavendish, more Westminster political turmoil and *'political manoeuvring'* causing delays to happen once projects hit the Secretary of State's desk, especially with the huge turnover of Ministers.

The amendments risk reducing the voice of Welsh communities and bodies have in the NSIP process, opening the door to environmental and other harms, in order to address problems that actually have their roots in Westminster Government disfunction. Both the UK Government's new clauses 44 and 45 were [passed](#) at the UK Commons committee stage in May and will now form part of the Planning and Infrastructure Bill.

In conclusion, Wildlife Trusts Wales believes that nature recovery is not simply a nice-to-have. Nature plays a [vital role](#) in the Welsh economy, provides recognised health and welfare [benefits](#) and [protects](#) communities and food production from flooding and extreme weather. With species populations in Wales [declining](#) by an average of 20% since 1994, nature's prospects cannot afford the risks introduced by the Planning and Infrastructure Bill. We urge the refusal of legislative consent.

Yours sincerely



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