

Report to	Planning Committee
Date	10 July 2025
By	Director of Planning
Title of Report	Planning Reforms Update
Purpose of Report	To inform members about the latest planning reform proposals, report on consultation responses made and obtain a steer on the content of future responses.

Decision

Recommendation: The Committee is recommended to:

- 1. Approve the proposed responses in Appendix 2; and**
 - 2. Note the responses in Appendix 1 in respect of consultations where deadlines preceded Committee.**
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Executive Summary

- This report sets out the background for the consultations on planning reform published at the end of May, reports on those consultations already responded to and asks Members for a steer on the remaining consultations.
- For the two consultations where the deadline has passed prior to Committee - on build-out rates and site thresholds – the report identifies the main issues for the National Park Authority and summarises the consultation responses in Appendix 1.
- For the consultations which are still live – reform of planning committees; changes to biodiversity net gain; and biodiversity net gain for nationally significant infrastructure projects – the report explains the proposals and their implications for the National Park Authority and summarises the proposed consultation responses in Appendix 2.

1. Background

- 1.1** Since the current Government was elected in July 2024 it has been on a fast-paced journey of planning reform. Members have been kept up to date on relevant changes in reports to Planning Committee in September 2024, February 2025 and April 2025. Changes have included a new National Planning Policy Framework (NPPF), changes to Planning Practice Guidance, the Planning and Infrastructure Bill, the English Devolution White Paper, Guidance on the s245 Duty, and numerous working papers and technical consultations on secondary legislation.
- 1.2** The latest set of proposals were published at the end of May 2025 and comprise:
 - Implementing measures to improve build out transparency and associated working paper – MHCLG – deadline 7 July;

- Reforming site thresholds working paper – MHCLG – deadline 9 July;
- The reform of planning committees – MHCLG – deadline 23 July;
- Improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development – Defra – 24 July; and
- Biodiversity Net Gain for Nationally Significant Infrastructure Projects – Defra – deadline 24 July.

2. Consultations Responded to Already (MHCLG Consultations)

- 2.1 As set out in 1.2 above, two of the consultations had deadlines before Planning Committee and therefore have been responded to already. These relate to the Government's proposals to speed up build out rates and to reform site thresholds.

Build-Out Rates

- 2.2 The Working Paper and Technical Consultation on speeding up build-out rates propose introducing a 'build-out reporting framework'. This is proposed to apply to residential developments of 50 homes and above and requires developers to:
- Submit a 'build out statement' with their planning application, including the quantity and mix of homes and when they will be delivered;
 - Notify the local planning authority before development is commenced through a commencement notice; and
 - Submit an annual report to the local planning authority on delivery against the 'build out statement' through a 'development progress report'.
- 2.3 Falling substantially behind the promised build-out rates without good reason could incur a 'Delayed Homes Penalty'. This could be based on a percentage of the house price, or via reference to local Council Tax rates. The local planning authority could also decline to determine planning applications made by persons who applied for, or who are connected to, an earlier planning permission for the development of land in the area which has not been built out at a reasonable rate.
- 2.4 Given the very limited number of planning applications submitted for 50+ dwellings in the National Park, the response to this consultation has been high level rather than addressing all the detailed questions. The response supported the principle of more accountability and transparency around build-out rates, recognising the concerns about large numbers of unimplemented planning permissions which could be addressing the housing crisis. However, it also notes the significant increased administrative burden for local planning authorities in assessing build out statements and development progress reports and taking action where delivery is unsatisfactory. The response therefore asks for an uplift in the planning fees for 50+ home applications to reflect the additional resource needed.

Working Paper on Reforming Site Thresholds

- 2.5 Currently planning applications for residential development are split into two categories:
- Minors – fewer than 10 homes or sites up to 0.5 hectares;
 - Majors – 10+ homes or sites above 0.5 hectares.
- 2.6 Government wishes to make the planning system easier for Small and Medium-sized Enterprises (SMEs), which generally propose sites for less than 50 homes. They also want to support development on very small sites. In both cases they argue that the current planning requirements place disproportionate burdens on their promoters, partly because the categories are so wide – i.e. that the requirements for single homes are the same as that for 9 homes, and those for 40 dwellings are the same as those for schemes for 1,000s of dwellings. The proposal is to introduce two further categories:

- Very small sites of under 0.1 hectares; and
 - Medium residential development of between 10-49 homes or on an up to 1 hectare site.
- 2.7 These proposals link into the other consultations in that Government is proposing;
- To only apply the build-out reporting framework to 50+ home schemes as explained above;
 - to inform the national scheme of delegation and;
 - to relax some of the Biodiversity Net Gain requirements for smaller developments as set out below.
- 2.8 In addition, the Working Paper flags some areas of future policy proposals which the new categories could help to facilitate. For instance, for the very small sites, it is suggested that a more 'rules-based' approach could be taken using design codes and digital tools for checking compliance. It is also suggested that the ability to apply for 'Permission in Principle' could be extended to medium sized developments, that Government could set clearer expectations for validation requirements and help to streamline s106 agreements, including with national templates.
- 2.9 The proposals for additional categories in this Working Paper are largely to facilitate those in the other consultations, and future proposals, but they are a key indicator that Government is seeking to make the planning system easier for smaller developers. In the National Park most of our planning applications for residential development will fall within the very small, minor and medium categories. Whilst the lightening of the burdens for both small developers and local planning authorities are to be welcomed in principle, they could impact on our ability to support National Park purposes and duty through the planning system, particularly achieving nature recovery and climate resilience. Our response was therefore limited to highlighting relevance of the smaller categories to National Parks and asking that any future proposals for relaxing planning requirements consider our statutory purposes and, where necessary, exempt protected landscapes from the proposals where there could be a conflict.
- 3. The Reform of Planning Committees (MHCLG Consultation)**
- 3.1 As reported in April, the Planning and Infrastructure Bill sections relating to the national scheme of delegation and the size and composition of Planning Committees do not apply to National Parks. However, for information, the Technical Consultation on the Reform of Planning Committees is proposing a two-tier system whereby most smaller applications must be delegated to officers, and other applications will be delegated to officers unless the Chief Planner and Chair of the Planning Committee agree that they should be reported to Committee. This is a similar approach to that currently used in this National Park. In terms of size of Committee, the recommendation is that this should be 8-11 members, with 11 set as a statutory maximum. This compares to the current 13 members of Planning Committee at SDNPA, reflecting our balance of local and national representatives.
- 3.2 The element of the reforms that will apply to National Park Authorities is the proposals for Member Training. The Bill requires mandatory, standardised, training for planning committee members. Once the committee member has completed the training, they will be issued with a "completion certificate" which will be valid for a specified period of time. Members will not be able to sit on planning committees or make any planning decisions without an up-to-date certificate. The main focus of the current consultation is whether this training should be carried out on a national or local basis. If the former, then it would be consistent across the country but could only cover national legislation and policy matters. If carried out locally then it could also include local planning issues but is likely to be less consistent. In our case, Member training would need to include not just national and local

planning matters but also training in National Park specific matters. Therefore, our recommended response to this question is that the training and certification should be carried out locally, but include a national online training course and certification requirements as part of that wider training.

- 3.3 The Technical Consultation also includes a proposal to review the threshold for designating local planning authorities that lose too many planning appeals, a measure of the quality of decision-taking. At present authorities that have more than 10% of their total caseload of major or minor applications overturned (allowed) at appeal are at risk of designation (i.e. having their planning powers taken away and given to the Planning Inspectorate). It is proposed to reduce this threshold to 5%. For context, between April 2022 and December 2024, the SDNPA's performance against this measure was 3.8% for major applications and 0.69% for non-major applications. It should be noted that some National Parks struggle with the existing 10% threshold for major applications because they receive so few of these types of applications that a small number of appeal overturns can make a big difference to their percentages. It is therefore recommended that National Parks either be exempted entirely from this measure or that there is a numerical level of overturns that would be accepted without designation even if it breaches the percentage requirements.

4. Changes to Biodiversity Net Gain (Defra Consultation)

- 4.1 A consultation on 'Improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development' was published at the end of May with a deadline for responses of 24th May.
- 4.2 Statutory Biodiversity Net Gain (BNG) was introduced for major developments in February 2024 and minor developments in April 2024. Early indications are that it has been broadly successful for larger developments, with a greater number of developers seeking ecological advice earlier in the process and designing their site layouts to avoid impact to biodiversity and seek to deliver more habitat onsite. For those who are unable to meet all of their BNG onsite, an off-site market is also rapidly developing. However, there is emerging evidence that some smaller developments and specific types of development are finding the operation of BNG is not as effective as it could be. In line with other measures to support SMEs, Government is proposing some changes to the way BNG is applied to these types of developments "to ensure the framework is simple and proportionate for SME developers whilst delivering on its potential for nature".
- 4.3 The proposals fall into the following categories:
- Reform of existing exemptions and introduction of new exemptions;
 - Streamlining the small sites metric and considering whether this could apply to medium development;
 - Relaxation of the biodiversity gain hierarchy and disapplication or amendment to the spatial risk multiplier for minor development; and
 - Delivery of compensation for development on brownfield sites with open mosaic habitat, applicable to all development categories.
- 4.4 This is a very technical consultation due to the complexity of BNG so the response focuses on headline issues for this National Park. These are:
- The impact of the proposals on the amount and quality of nature that is retained and enhanced on-site in smaller developments, contributing to the health and wellbeing of future residents and occupiers;
 - The impact of the proposals on the emerging off-site market, especially given the role of habitat banks in contributing to the National Park's ambitions for large scale nature recovery; and

- The impact on areas of open mosaic habitat, particularly found on brownfield sites and disused quarries.

Exemptions

- 4.5 Currently certain types of development are exempted from providing BNG. This includes householder applications, self-build/custom-build applications and any applications which are 'de minimis' - that is they do not impact priority habitats and impact less than 25 square metres (5m by 5m) of on-site area habitat and 5 metres of on-site linear habitats such as hedgerows. Government is proposing that the self-build exemption be replaced by one for all single dwellings. This is largely due to the problems encountered in controlling whether dwellings remain as self or custom build in the longer term. They are also testing options for a higher de minimis threshold so more minor development would be exempt, or alternatively a full exemption for all minor developments. In addition, new exemptions are being considered for parks, public gardens and playing fields development; development whose primary objective is to conserve or enhance biodiversity and temporary planning permissions of up to five years.
- 4.6 Exempting more (or all) minor developments from BNG risks seeing less nature within such sites, which are often within urban areas where nature is already depleted. Such sites are often not required to provide on-site open space or recreation facilities due to their size, so without BNG there is the risk that they would not provide any natural health and wellbeing benefits to future residents or occupiers.
- 4.7 There are also implications for the emerging off-site habitat bank market, especially if all minor development was exempted from BNG. Large sites are much more likely to be able to accommodate BNG on-site, therefore the financial support for off-site habitat banks tends to come from minor developments that do not have the capacity to accommodate all of their required biodiversity uplift on-site (Government estimates that 80% of all transactions for off-site credits are from minor development). This proposal will impact on the confidence of investors and landowners to put land forward for such habitat banks, and therefore the ability of the SDNPA to meet its aspirations for nature recovery.
- 4.8 It is proposed therefore that the SDNPA strongly oppose the increase in exemptions for minor developments or the threshold for de minimis development due to the issues raised above. The proposal to amend the self-build exemption to one for single homes is supported. Whilst the proposed exemptions for open spaces and biodiversity related development may be appropriate, exempting all temporary permissions would need careful consideration especially where relating to repeating events which have long term impacts.

Streamlining the Metric

- 4.9 There are currently two ways to measure existing biodiversity and proposed enhancements: the full Metric and a Small Sites Metric. The latter was introduced to make it easier for smaller developers and can be used for minor development with no priority habitat, European protected species or protected sites present. The Small Sites Metric does not require a qualified ecologist to assess the existing habitats or advise on any new ones, but to balance this risk it limits the claims made for condition and distinctiveness of habitats and the enhancements that can be claimed.
- 4.10 Proposed changes to the Small Sites Metric include:
 - Extending the use of the Small Sites Metric to medium developments (i.e. up to 49 homes on up to 1 hectare);
 - Omitting the requirement for there to be no European protected species or protected sites present, because without full ecological surveys they may not know if there are such species present;

- Relaxing the ‘trading rules’ to allow habitat loss to be compensated for by any habitat type rather than the same broad type as that being replaced;
- Fixing current (baseline) habitat condition as ‘poor’ and proposed enhancements as ‘moderate’ to reflect experience;
- Merging and simplifying habitat types to make them easier for non-ecologists to recognise and record;
- Taking any sites within the riparian zone of any watercourse habitats out of the scope of the Small Sites Metric so they have to be assessed using the main Metric; and
- Providing more clarity on the definition of a ‘competent’ person who can complete the Small Sites Metric.

- 4.11 In respect of the main Metric it is proposed to review the requirement for development affecting the riparian zone of any watercourse habitat to submit a river condition assessment survey of both banks of the watercourse. This is considered disproportionate for minor development and development where there are no impacts on the riparian zone.
- 4.12 For both Metrics it is suggested that biodiverse features within vegetated gardens (such as trees and ponds) could be accounted for, and questions are asked about how this could be controlled once they are in private ownership. It is also confirmed that Government intends to move to an online digital version of the Metrics, rather than the current Excel spreadsheets which have been causing issues as many local authority IT systems reject some of their functionality.

Relaxation of the biodiversity gain hierarchy

- 4.13 The Biodiversity Gain hierarchy, set in secondary legislation, requires developers to deliver onsite habitat improvements in the first instance, followed by off-site gains and finally by purchasing statutory credits from the government as a last resort. This is reinforced by the ‘Spatial Risk Multiplier’ which penalises use of off-site habitat units by requiring 1.33 times the amount of on-site ones, and requiring twice as many national credits as on-site units.
- 4.14 Government is considering whether to relax the hierarchy to place onsite habitat improvements with the same preference as off-site, for minor development only. This would make it easier for small sites to discharge the BNG condition, removing the need to evidence that all onsite possibilities had been exhausted. Statutory credits would remain a last-resort option. This would mean amending or disapplying the Spatial Risk Multiplier for minor development utilising off-site habitat units.
- 4.15 In contrast to some of the earlier proposals, this one could actually support the provision of habitat banks and the National Park Authority’s aspirations for nature recovery. The Lawton review stressed the importance of ecological networks to make bigger, better and more joined up spaces for nature. There may be a greater benefit overall therefore if minor development is able to contribute towards bigger joined up areas for nature by going off-site, rather than creating very small pockets of nature in individual and disconnected sites. However, the downside is that it could lead to less nature on small sites, especially in urban areas.
- 4.16 Overall, this proposal is considered to have positive benefits for nature and should be supported. There are other design principles that we can apply to small sites to encourage retention and creation of open natural areas within developments to support health and wellbeing of occupants, and these can be focussed on primarily meeting their needs with biodiversity benefits being secondary.
- 4.17 Less positively, there is also a proposal to amend the Spatial Risk Multiplier assessment methodology for all development types so that it is based on Local Nature Recovery

Strategy (LNRS) and National Character areas. At present, the Multiplier penalises off-site provision that takes place outside of the National Park because it is based on local planning authority area. If this is changed to LNRS and National Character areas then development causing biodiversity loss within the National Park could be off-set by biodiversity gains outside of the National Park. This would be contrary to our statutory purpose to conserve and enhance natural beauty and wildlife.

Open Mosaic Habitat

4.18 Open Mosaic Habitat is a priority habitat which predominantly exists on previously disturbed brownfield sites. It is categorised as a ‘high distinctiveness’ habitat in the statutory biodiversity metric meaning its loss must currently be compensated for on a ‘like for like’ basis whether on or off-site. On-site retention and enhancement is often difficult and does not make best use of brownfield sites, which are generally preferred for development. Whilst there are some Open Mosaic Habitat banks, the price of credits is set very high due to the scarcity of sites and because the habitat is difficult and expensive to create due to the unique conditions it requires and need for intermittent disturbance to maintain it.

4.19 It has also been suggested that some sites are being incorrectly identified as containing Open Mosaic Habitat because definitions vary across different sources. Government is proposing two measures:

- Updates to the metric definitions, guidance and condition assessment to support ecologists in the identification of Open Mosaic Habitats; and
- When there is no Open Mosaic Habitat available off-site, allowing its loss to be compensated for with an alternative habitat mosaic with similar ecological benefits.

4.20 These proposals have implications for some of our potential development sites such as Shoreham Cement Works and other disused quarries which are likely to contain Open Mosaic Habitats. The proposals would allow some flexibility in agreeing what should replace any necessary loss of these habitats, including for instance requiring their replacement with chalk grassland or other appropriate high distinctiveness habitats suitable to the South Downs. It is recommended therefore that we support these proposals.

5. Biodiversity Net Gain for Nationally Significant Infrastructure Projects (Defra Consultation) - credit for summary to Irwin Mitchell

5.1 Biodiversity Net gain does not currently apply to Nationally Significant Infrastructure Projects (NSIPs). It was initially proposed to bring it in from April 2025, but implementation has now been pushed back to May 2026. The consultation proposes a consistent, “core” approach to BNG across all NSIP sectors, with flexibility for sector-specific adaptations if necessary. BNG will apply to all onshore NSIPs in England, including temporary and associated developments within the defined project boundary (order limits). Marine projects beyond the intertidal zone and infrastructure consented through other routes (e.g., hybrid Bills) are excluded for now. The key proposals are as follows:

- i. **Biodiversity Gain Objective:** NSIPs must demonstrate a minimum 10% increase in biodiversity value compared to the pre-development baseline. This must be evidenced through a biodiversity gain plan and calculated using the statutory biodiversity metric.
- ii. **Irreplaceable Habitats:** These are excluded from the BNG calculation due to their high ecological value. Any loss must be minimized and compensated through bespoke strategies, but statutory biodiversity credits cannot be used.
- iii. **Calculating BNG:** The statutory biodiversity metric will be used to assess habitat value pre- and post-development. Gains can be achieved through on-site enhancements, registered off-site units, or, as a last resort, statutory biodiversity credits.
- iv. **Pre-Development Value:** All habitats within the NSIP boundary must be assessed.

To **prevent** habitat degradation before application, earlier dates may be used to determine baseline values if degradation is suspected.

- v. **Delivering BNG:** Unlike Town and Country Planning Act developments, NSIPs can use **off-site** gains or credits without first exhausting on-site options. Significant on-site enhancements must be secured for 30 years via legal agreements.
- vi. **Temporary Land Use:** The consultation seeks views on whether bespoke policies are **needed** for land used temporarily during construction, which may not be viable for long-term habitat commitments.
- vii. **Integration with Other Policies:** BNG must align with existing environmental obligations and the mitigation hierarchy. Enhancements for other purposes (e.g., green infrastructure) may count toward BNG if appropriately evidenced.
- viii. **Evidence and Decision-Making:** Applicants must submit a biodiversity gain plan and **metric** calculation with their development consent order (DCO) application. Post-consent updates may be required, especially for phased developments.

5.2 The big issue for the National Park is how these proposals could contribute to its ambitions for nature recovery. As with the previous consultation, the proposal to allow NSIPs to go straight to off-site provision without penalties rather than prioritising on-site provision (v) could have benefits to the National Park in supporting habitat banks and Local Nature Recovery Strategies. However, it could also facilitate the provision of BNG outside the National Park when the development is inside. The key message in response to the consultation is therefore that any off-site provision should be made within the National Park.

6. Conclusion

6.1 Planning Reforms are fast-moving and significant, reflecting the Government's commitments to economic growth including 1.5 million homes by the end of this Parliament. Key to these ambitions is reinvigorating the SME housebuilders to take a bigger role in the marketplace by removing some of the burdens of the planning system, as well as applying pressure to the volume housebuilders to deliver permissions on the ground. However, Government has also committed to supporting nature and climate action and has retained the legislative and policy protections for National Parks, including the strengthened duty under National Parks & Access to the Countryside Act 1949, as amended by Section 245 of the Levelling Up & Regeneration Act (LURA) 2023. The consultation responses provided and recommended in this report are intended to ensure that the proposed reforms do not conflict with that duty to seek to further the purposes of the National Park.

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No
Does the proposal raise any Resource implications?	No
How does the proposal represent Value for Money?	N/A
Which PMP Outcomes/ Corporate plan objectives does this deliver against	Outcome 1: Landscape & Natural Beauty; Outcome 3: Habitats & Species; Outcome 9: Great Places To Live; and Outcome 10: Great Places To Work
Links to other projects or	Joint responses with other National Parks.

Implication	Yes*/No
partner organisations	
How does this decision contribute to the Authority's climate change objectives	N/A
Are there any Social Value implications arising from the proposal?	None
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Yes
Are there any Human Rights implications arising from the proposal?	None
Are there any Crime & Disorder implications arising from the proposal?	None
Are there any Health & Safety implications arising from the proposal?	None
Are there any Data Protection implications?	None.

6. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
Loss of opportunities to enhance biodiversity and climate resilience in the National Park through reduced market for habitat banks.	Possible	Major	Respond to the consultations as recommended above and work with other National Parks and groups to raise awareness of the implications.

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Appendices	<ol style="list-style-type: none"> 1. Copy of consultation responses already made 2. Proposed responses to outstanding consultations
SDNPA Consultees	Director of Planning; Monitoring Officer; Legal Services.
External Consultees	None
Background Documents	<p>Implementing measures to improve build out transparency and associated working paper – Technical consultation on implementing measures to improve Build Out transparency - GOV.UK Planning Reform Working Paper: Speeding Up Build Out - GOV.UK</p> <ol style="list-style-type: none"> 1. Reforming site thresholds working paper Planning Reform Working Paper: Reforming Site Thresholds - GOV.UK 2. The reform of planning committees Reform of planning committees: technical consultation - GOV.UK 3. Improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development Improving the implementation of biodiversity net gain for minor, medium and brownfield development - GOV.UK 4. Consultation on Biodiversity Net Gain for Nationally Significant Infrastructure Projects Biodiversity net gain for nationally significant infrastructure projects - GOV.UK 5. Irwin Mitchell DEFRA consults on bringing NSIPs into the BNG regime and changing it for minor, medium and brownfield development