

Powers in Place briefing



Nature

The Key Takeaway

While there is significant scope for local authorities to play a strong role in nature conservation and recovery, current powers have not been sufficient to protect nature. Important species and habitats face fragmentation, degradation and extinction from development, pollution and poor management.



Executive Summary

Powers in Place: Nature outlines the duties and powers local authorities have to deliver nature recovery and tackle climate change while delivering health and wellbeing co-benefits through helping people to get out in nature. It is a supplementary chapter to Powers in Place – the Handbook of Local Authority Net Zero Powers.

The UK is one of the most nature-depleted countries in the world due to its long history of industrialisation and land use changes over millennia. A quarter of mammals in England and almost a fifth of UK plants are threatened with extinction.

We are facing twin crises - an ecological crisis that is exacerbated by, and exacerbates, the climate crisis. Managing our natural environment to reduce carbon emissions, adapt to inevitable climate impacts, and mitigate the extent of climate change, whilst allowing nature to recover and thrive is an urgent challenge. To do this we need biodiversity.

This means reducing human pressures on our environment by carving out protected zones, restoring degraded landscapes and replacing natural corridors and stepping stones for nature. We need to be nature positive by 2030 with nature thriving by 2050.

About UK100

UK100 is a network of local leaders who have pledged to lead a rapid transition to Net Zero with Clean Air in their communities ahead of the government's target.

Key Recommendations



Consistency for nature: Government should roll out clear, coherent and connected policies and financial incentives to provide a strong investment case for developers, landowners and farmers to prioritise nature recovery alongside cutting emissions.



Priority for Nature: Nature recovery needs to be as strong in the implementation as it is in the duties, targets and strategies. National and local delivery policies need to strengthen the weight given to nature protection in the planning system, and all other policy and spending areas.



Funding for Nature: Fully fund nature recovery delivery capacity in local authorities for Local Nature Recovery Schemes (LNRS) and Biodiversity Net Gain (BNG), including expanding staff teams with long-term funding, and investing in Nature Recovery training for all local authority staff and elected Members, akin to Carbon Literacy Training.

Challenges



Lack of funding and capacity

- Many Local Authorities do not have the capacity, capability, or resources to stand up for nature or plan it into their services.
- Insufficient funding provided through competitive bids for short term periods hampers effective long-term planning.
- There is a lack of enforcement of environmental policies, due to capacity issues in local authorities and under-funding of the Environment Agency.



Limited powers

- Local authorities have wide-ranging powers to protect existing sites for nature, but little power over farmland (69% of England's land) beyond planning powers.



Lack of consistency in national policies

- There is a lack of clear, coherent and connected national policies on nature.
- Delays in forthcoming policy, guidance and funding schemes create uncertainty.
- There is a complexity of responsibilities for nature recovery and lack of coordination between national and local government.



Piecemeal approach

- Lack of a whole-systems approach has led to an inability to prevent the cumulative impacts of development and pollution on habitats and species.
- Nature recovery is mostly piecemeal, focused on isolated nature reserves, but landscape scale recovery is required.
- The lack of an overarching Land Use Framework makes it difficult to balance competing demands on land leading to other forms of development being prioritised over nature protection.



Planning

- Details on how Local Plans should 'have regard to' LNRS are not yet available.
- Mandatory BNG should make it easier for planners to negotiate for stronger nature enhancements, but viability arguments from developers are expected to continue.
- Many local authorities will struggle to resource post-development monitoring.
- The threat of legal challenge to planning decisions and lack of budget to fight appeals can weaken planning decisions.



Calderdale Council and the Environment Agency worked with charity Slow the Flow in response to devastating floods in the Calder Valley in 2015. They developed and researched Natural Flood Management, alongside the hard engineering solutions to reduce flood risk to communities in the valley. Installed across the landscape or catchment, the many natural measures reduce and slow the peaks of water reaching river courses after intense rainfall, reducing flood risk. These measures reduce and slow the peaks of water reaching river courses after intense rainfall, reducing flood risk and creating new habitats for species.

West Berkshire Council issued a Local Climate Bond which raised £1 million for the council to invest in green projects including urban tree planting and habitat restoration for flood alleviation. 1 in 6 investors donated their interest payments to the Wildflower Verge Project to create a network of wildlife-friendly habitat along roadsides which will support crucial pollinators like bees and butterflies. A rapid assessment of West Berkshire's 1,100km road network will identify priority road verges for wildlife for the Nature Recovery Network.



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Relevant Legislation	Power enabled or blocked
Environment Act 2021	The Environment Act 2021 introduced new duties for local authorities for nature recovery and biodiversity including: All planning permissions granted in England (with a few exemptions) will have to deliver at least 10% biodiversity net gain from November 2023 (S98-101) Enhanced duty for local authorities to conserve and enhance biodiversity (S102) and report on their actions (S103) LPAs will need to comply with the above duty and have regard to the Local Nature Recovery Strategy in local planning policy and decisions (S102). Responsible authorities appointed by the Secretary of State (S105) to lead the Local Nature Recovery Strategy (LNRS), working with a broad range of stakeholders.
Wildlife and Countryside Act 1981 Crime and Disorder Act 1998	This Act is the basis of protection of all wildlife in the UK and includes schedules that set out those species with additional levels of protection. It also provides the basis for the identification of sites of national importance for nature conservation - Sites of Special Scientific Interest (SSSIs). Duty to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment) i.e. including wildlife crime S17.
The Conservation of Habitats and Species Regulations 2010 consolidated and updated by The Conservation of Habitats and Species Regulations 2017	Duty: local authorities must exercise their nature conservation functions to comply with the Habitats Directive and consider the effect on a European site before granting consents or authorisations, including the grant of planning permission and subject to specified exceptions (considerations of overriding public interest), may not authorise a plan or project that may adversely affect the integrity of a European site.
Town and Country Planning Act 1990 (Planning Act 2008)	Introduced s.106 agreements (and the Community Infrastructure Levy) to provide developer contributions to supporting infrastructure which can include protection, monitoring or restrictions for sites including designated sites (and for green infrastructure etc).
Town and Country Planning Act 1990 Town and Country Planning (Tree Preservation) (England) Regulations 2012	Trees and Tree protection orders General duty, wherever appropriate, in granting planning permission for any development... to ensure preservation of, and planting of trees S197. Power to make tree preservation orders s198. This covers the preservation of trees or woodlands in their area, in the interests of public amenity.
National Parks and Access to the Countryside Act 1949	All district and county councils have powers to acquire, declare and manage Local Nature Reserves (LNR). To qualify for LNR status, a site must be of importance for wildlife, geology, education or public enjoyment. LNRs must be controlled by the local authority through ownership, lease or agreement with the owner. (S21) A local authority may carry out works to improve land, including derelict land, including the planting of trees and may compulsorily acquire derelict land for that purpose. (S89)
Marine and Coastal Access Act 2009	Establishes Inshore Fisheries and Conservation Authorities (IFCAs) in England (committees of local government and Marine Management Organisation-appointees with relevant experience) with duties to manage the exploitation of fishery resources in a sustainable way; balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation and balance different people's needs (e.g. community, fishing industry etc). They must further the objectives of Marine Conservation Zones. (S153) Provides IFCAs with powers to make byelaws regarding prohibition or restriction of exploitation activities in protected areas; permits; vessels, methods and gear; protection of fisheries for shellfish; research and monitoring. (S155 & 156). They can also make emergency byelaws, and byelaws relating to particular areas or times of year.

Relevant Legislation	Power enabled or blocked
Hedgerow Regulations 1997powers conferred by section 97 of the Environment Act 1995 and related to TCPA 1990	Limited powers to protect certain rural hedgerows it considers to be of environmental importance. ‘Removal’ of a hedgerow includes not only grubbing-up but also other acts that result in the destruction of a hedgerow. “Important hedgerows” – existed for more than 30 years, historic boundaries, habitat for important species, 20m length etc. does not apply to hedges bordering domestic houses.
Local Government (Miscellaneous Provisions) Act 1976Environment Act 2021 Amended Highways Act 1980	A local authority may deal with dangerous trees (S23).Duty of local highway authorities in England to consult before felling street trees. Duty to consult before felling unless the tree diameter is less than 8 cm, the tree is dead or diseased, causing an obstruction etc.
Countryside and Rights of Way Act 2000	Duty: A local authority must produce and publish management plans in relation to areas of outstanding natural beauty as required by the Act (S89). This is the case if there is not a Conservation Board that has published a management plan.
Environmental Protection Act 1990	A local authority may carry out remediation works on contaminated land in certain circumstances and to recover its costs (S78N). This is possible to prevent harm, pollution to waters or danger. Duty to keep land and highways clear of litter etc. S89.
Highways Act 1980	Duty: Highway authorities must keep a record of public rights of way and make sure they are open for public use. The legal record of a highway authority’s rights of way network is known as the ‘definitive map and statement’.Powers of highway and local authorities to plant trees, lay out grass verges, etc. S96.The highway authority may permit the occupier or the owner of any premises adjoining the highway to plant and maintain, or to retain and maintain, trees, shrubs, plants or grass in such part of the highway as may be specified in the licence S142.
Countryside Act 1968	Local authorities have powers relating to providing, or improving, opportunities for the enjoyment of the countryside by the public.A local authority may provide, maintain and manage a country park, acquire land to enable it to do so and issue byelaws regarding its use (S18).Access to open country: rivers, canals and woodlands – Local Planning Authorities should make sure that there is access to rivers and canals for picnics, launching boats or going around obstacles on rivers.The power to provide country parks.A local authority may impose terms into access agreements to prevent land becoming excepted land.The highway authority has powers relating to the signposting of footpaths and bridleways.
Open Spaces Act 1906	A local authority may use its land for the purposes of open spaces (S7). Local authorities have the power to acquire open spaces or burial grounds (S9). County Councils can purchase or lease grounds for public walks or pleasure grounds (S14).
Public Health Acts Amendment Act 1890	A local authority may lay out, plant and improve land forming part of a park or pleasure ground.
Small Holdings and Allotments Act 1908	Duty to provide allotments – if there is a sufficient demand, certain types of council (borough, urban district or parish) have a duty to provide and let a sufficient number of allotments (S23). (County Councils have the power to let allotments under Section 15 of the Allotments Act). They may purchase, lease or acquire land for allotments by compulsory purchase order (or compulsory hire of land) (S25).A local authority may promote the formation or extension of co-operative societies in relation to allotments or small holdings, including the giving of grants or making of loans in certain circumstances (S49).
Agriculture Act 1970Small Holdings Act 1892	A local authority may acquire land for the purposes of use as a smallholding (i.e. between 1 and 50 acres). A local authority may adapt land for use as a small holding prior to letting or sale.