



ENGLISH HERITAGE

Biodiversity Offsetting
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Date 7 November 2013

Dear Madam/Sir

DEFRA BIODIVERSITY OFFSETTING IN ENGLAND GREEN PAPER- ENGLISH HERITAGE RESPONSE

English Heritage is Government's statutory adviser on the historic environment and an Executive Non-Departmental Public Body sponsored by the Department for Culture, Media and Sport, with its funding agreement signed by the Department for Communities and Local Government, and the Department for Environment, Food and Rural Affairs. It was established by the National Heritage Act 1983 and seeks to broaden public access to England's cultural heritage, increase people's understanding and appreciation of the past, and conserve and enhance the historic environment.

Our interest in this Green Paper comes from the overlap between heritage assets and natural environment assets. The principle difference between these two types of environmental designation is that we regard heritage as a non-renewable resource. If a heritage asset, be it a building structure or earth structure or ridge and furrow field or hedgerow is destroyed that piece of England's heritage is lost. To recreate it elsewhere is not regarded as a substitute as the new structure or feature is just a C21 recreation, with that limited historic interest.

Overview of the proposals contained in the Green Paper

In our view, an offsetting system of sorts is already in place and supported in Government policy in the NPPF. To date, however, these have been referred to as 'compensatory measures', and have in fact been in place since PPS9 on Biodiversity and Geological Conservation, and in some of the now withdrawn Regional Spatial Strategies.

As such, the current proposals seem more akin to supporting already existing policy with prescriptive planning guidance on how to implement an offsetting regime, especially with the definition of an 'offsetting metric'.

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Question 1: Do you think the Government should introduce a biodiversity offsetting system in England?

The starting point should be the need to demonstrate that the existing mechanisms (the NPPF, s106s etc) are burdensome or deficient in relation to the way that biodiversity value is assessed and mitigated.

Other comments on the text in Paragraph 11:

Quicker - It is debatable whether an offsetting system would make planning deliberations any quicker than is currently the case. The main benefit of the system would be to developers in that it would presumably introduce more certainty and reduce the number of instances where substantial harm to biodiversity could result from development proposals, and therefore when the planning authority would be obliged to refuse the application because it fails the NPPF test of sustainable development.

Cheaper – We think it would be difficult to design an offsetting system that does not entail additional costs and need some kind of oversight.

From the point of view of cultural and heritage issues, we are concerned that compensatory habitat may well be provided away from the area affected by development. In ecosystems services terms this would still result in a net loss in terms of cultural services to the community (on the basis that another community elsewhere would be getting the health/welfare/access/biodiversity benefits of the newly created or enhanced habitat). We think that it is important that any offsetting mechanism considered these cultural services and their loss to communities, because they may also have tangible economic value (for example where the habitat lost to development was possibly low in biodiversity value, but a focus for community leisure activities).

Question 2: Do you think the Government's objectives for the system and the characteristics the Government thinks a system would display are right?

In terms of the objectives, the primary aim should be to support and be consistent with the provisions of the NPPF in relation to the sustainability of biodiversity. This should be the principle objective, in conjunction with achieving a net gain for biodiversity.

Question 3: Do you think it is appropriate to base an offsetting system on the pilot metric? If not is there an alternative metric that should be used?

Question 4: If you think the pilot metric is the right basis for an offsetting system:

- a) Are there any other factors which should be considered when quantifying biodiversity loss and gain?
- b) Are the weights given to the different factors appropriate?
- c) Are there any other changes you think should be taken into account?

a) Habitats (and some species) also have a cultural and sometimes historic value. Later on this consultation covers hedgerows, for instance, which can date back over 1,000 years and

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have cultural, historic and landscape importance. Furthermore, the public response to the consultation on proposals to sell off the public forestry estate showed that some areas of intensively managed forestry monoculture (with a consequently relatively low biodiversity value) were nonetheless highly valued by their local communities, because of their health/welfare/recreational benefits, their contribution to the local landscape, or their historic connotations. Other habitats elsewhere will be similarly valued. There is a need to reflect these cultural considerations within assessments, but at the same time many aspects of cultural ecosystems (for that is what in effect they are) are, like the historic environment, non-renewable. We recommend therefore that any systems of offsetting should not only have regard to this cultural dimension, but specifically to the work on cultural ecosystem services currently being undertaken by DEFRA under the auspices of the National Ecosystems Assessment follow-on phase.

Question 5: Do you think offsetting assessment should be used when preparing a planning application for a project?

No, the process starts at pre-application with the rigorous application of mitigation hierarchy. It is only when this has been gone through and the development proposal is recognised as having sufficient public benefit that might justify the offset approach that it should then become part of planning application.

Question 6: Do you agree that it should be the responsibility of planning authorities to ensure the mitigation hierarchy is observed and decide what offset is required to compensate for any residual loss? If not, why, and how do you think offsetting should be approached in the planning system?

Planning authorities are unlikely to have the relevant ecological expertise. The applicant and local planning authority would need to jointly appoint a professional ecologist.

Question 7: Do you think biodiversity offsetting should have a role in all development consent regimes?

We agree that at present any proposals for offsetting should be limited to development under the Planning Acts and the Highways Act 1980.

We believe that the willingness to provide an offset should not be a material consideration in the planning process.

Question 8: Do you think developers should be able to choose whether to use offsetting? If so what steps could Government take to encourage developers to use offsetting?

Question 9: If you think developers should be required to use offsetting do you think this requirement should only apply above a threshold based on the size of the development? What level should the threshold be?

Question 10: Do you think there should be constraints on where offsets can be located? If so what constraints do you think should be put in place?

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As we suggested in our response to Question 1, offsetting may avoid a net environmental loss at a national, regional or other lesser level, but it will still result in a net loss to local communities if the offset habitat is created at any distance from the development site. Like SI06 an offset scheme should be delivered in the vicinity of the development site where the impact is.

Question 12: Do you have evidence that would help refine the Government's analysis of the costs and benefits of the options considered in this paper? In particular, evidence relating to:

- a) The amount of compensation already occurring where there is residual biodiversity loss which cannot be avoided or adequately mitigated
- b) The method for estimating costs and their magnitude
- c) The method for estimating benefits and savings and their magnitude
- d) How to capture the wider social and environmental benefits of maintaining England's stock of biodiversity and delivering a coherent ecological network
- e) Likely take up of offsetting under a permissive approach

I2d As above, we would point to the National Ecosystems Assessment, and also the follow-on phase (particularly in relation to understanding and quantifying the cultural dimension through cultural ecosystem services).

Question 24: How long should offsets be secured for?

We think it appropriate that offsets should be secured in perpetuity rather than time-limited.

Question 25: Are there any long-term factors, besides climate change, that should be taken into account when securing offsets?

Question 26: Do you think biodiversity offsetting should be "backdated" so it can apply in relation to any planning applications under consideration at the point it is introduced?

No, this would cause further confusion and delays in respect of proposals currently going through the planning system.

Question 27: Do you think an offsetting system should take a national approach to the question of significant harm and if so how?

Yes, to ensure consistency, and the NPPF/NPPG definitions should be used.

We do not think that there is a workable alternative to a national framework for assessing significance. Local nuances notwithstanding, significance assessments are based upon a consideration of what is nationally (sometimes internationally in relation to habitats) important. To use any other system would reduce consistency and increase confusion for developers.

Question 28: Do you think any additional mechanisms need to be put in place to secure offsets beyond conservation covenants? If so why and what are they? If this includes measures not listed above, please explain what they are.

Question 29: Do you think there should be constraints on what habitat can be provided as an offset? If so what constraints do you think should be put in place, and how should they work in practice?

Question 30: Do you agree an offsetting system should apply a strategic approach to generate net ecological gain in line with *Making Space for Nature*? If so, at what level should the strategy be set and who by? How should the system ensure compliance with the strategy?

In terms of scale, it would be difficult to reconcile this with the localism agenda, in so far as the "more, bigger, better" approach to making species and habitats resilient to climate change and other adverse factors will need to operate at a level in many cases larger than the areas covered by local planning authorities. At the very least therefore, achieving the aims of *Making Space for Nature* could lead to net losses in relation to local communities, albeit through achieving wider strategic gains.

Question 36: Do you think the metric should take account of hedgerows? If so do you think the current approach is the right one or should it be adjusted?

In addition to their biodiversity value, hedgerows and other form of traditional boundaries have historic and cultural importance, indicative as they are of historic patterns of land use (such as enclosure). It is important therefore that the cultural value of these historic features is taken into consideration when assessing a development proposal, rather than just their habitats potential. This is consistent with the approach taken within the Hedgerows Regulations.

Question 37: Do you think it should be possible to offset the loss of hedgerows by creating or restoring another form of habitat?

See our answers to Questions 1, 4 & 10, where point out that the heritage and cultural interests of hedgerows need to be taken into account. Once the hedgerow is lost, an important heritage asset / item of cultural interest has disappeared. Creating or restoring another form of habitat does nothing to ameliorate this.

Please do not hesitate to contact me if you want clarification on any of the points we raise

Yours faithfully



Charles Wagner

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