

Summary briefing

Biodiversity offsetting, no net loss and net gain – a licence to continue to trash nature

This briefing summarises two longer documents on the threats of biodiversity offsetting, no net loss and net gain, which the UK government is seeking to make part of national policy.

Nature is in trouble with a majority of UK wild species in long term decline. Similar declines in wildlife and natural ecosystems are underway across Europe and the globe, with consequences for human life. Action for nature must be stepped up with proven, reliable solutions deployed to protect and restore nature everywhere, not only in designated nature areas.

The theory of offsetting is that damage to and loss of wildlife habitat can be ‘offset’ by creating or enhancing nature elsewhere and that doing so can avoid net losses and may even provide ‘net gains’. That is how offsetting is being promoted, but evidence from north America, Australia and Germany, where offsetting has been policy for decades, shows that it is not working. The UK’s offsetting pilots have also been inconclusive at best.¹

Offsetting is a license to trash and government attempts to make it part of environment and planning policy is an irresponsible distraction from the concerted restoration effort that is required to restore nature locally and at scale. By pursuing offsetting the government is perpetuating business-as-usual practices where nature is seen not as a treasure to protect, enhance and restore but as an encumbrance to unsustainable business and economic growth demands. This is also embedded in the presumption in favour of development in national planning policy which allows aims for nature to be overridden.

The UK government should halt the naïve pursuit of offsetting and focus on the following:

- Increasing the protection of international, national, regional and local nature sites, and require restoration of nature and biodiversity through the planning system and decisions;

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- Making the planning system fit for purpose and ensuring proper oversight and scrutiny of developers' projects including by properly resourced local planning authorities;
- Creating incentives for biodiversity to be retained and restored and new space for nature to be created and at scale based on proper scientific assessment of need and deficits;
- Addressing the market failure of developers and public bodies presiding over nature's decline by properly implementing existing nature obligations, laws and regulations; and,
- Devising and prioritising a clear-eyed and determined plan to restore nature as part of the UK delivering on the Sustainable Development Goals (SDGs), the Convention on Biological Diversity (CBD) and other duties toward habitats and species.

Biodiversity offsetting - the main risks

1. **A license to trash** - By promising to make up for harm to and loss of nature in a location by restoring or increasing biodiversity somewhere else offsetting paves the way for destroying it in the first place, providing developers and governments with a "license to trash" when full attention should be on changing practices and action to reverse nature's decline.
2. **Justifying loss of irreplaceable nature** – Many habitats and biodiversity are irreplaceable. Ancient woodland cannot be 'replaced' with new trees or forests of equivalent importance for nature, heritage and learning. In its 2013 offsetting Green Paper the government proposed a 'free-trading system' where any type of habitat could be provided as an offset if it generates "sufficient biodiversity units" to be traded in a market place. The government's planning rules still allow loss of irreplaceable habitat for "wholly exceptional reasons" such as for "nationally significant infrastructure projects".
3. **Adding to, not easing, development pressures** - Offsetting is likely to facilitate the destruction of biodiversity in areas of high development pressure in return for habitat creation where land is cheaper. In its Green Paper the government suggested there would be net losses of biodiversity in areas where there is greatest value in development.
4. **Turning nature into a tradeable commodity** - Relying on market-based offsetting where price tags are put on nature before being turned into 'units' to be traded as a commodity on markets ignores that each component of biodiversity is unique and – due to its complexity – cannot be truly replaced. There is no way to offset extinction of a species, which is what such policies risk by commodifying nature on balance sheets. It is also unsafe to presume that land, habitats and species which may be regarded and valued less highly than prized habitats or iconic species can be lost, traded and replaced without adding to the wider erosion of nature and ecosystems likely to undermine conservation effort, including in protected areas.
5. **Allowing developers to avoid high standards** - Unless required by planning rules to incorporate high standards of biodiversity into all new development, developers are unlikely to do so voluntarily if they can pay for compensatory

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offsets to be ‘created’ elsewhere. The government’s Impact Assessment of its Green Paper gave the game away by listing “increasing net developable area” as a main benefit of introducing biodiversity offsetting.²

6. **Not protecting local nature** - Most nature areas which do not enjoy designated ‘protected’ status could be most vulnerable to development pressures under government planning rules which give a presumption in favour of development over the protection of nature especially those regarded as having “least environmental or amenity value”.³ Yet access to local nature is important to communities whether or not it is regarded as distinctive or important by policy makers. When advocating offsetting the then Environment Secretary, Owen Paterson, said the offsets could be “reasonably local” and defined this as being “about an hour away” by car.⁴
7. **Not measuring nature accurately** - Measuring the true value of wider ‘ecosystem services’ is complex and is not easily reflected in the metrics likely to be used in assessing offsetting. For example, the value of services provided by nature such as pollination by bees, clean water provided by healthy soils and flood mitigation from naturally functioning rivers are not easily captured. Proper recording of species, and attributes of a location would need to be a thorough and probably long, laborious task taking place over many seasons and years to ensure proper assessment is undertaken, not just a single season’s ‘snapshot’.
8. **Not guaranteed to last** - Enforcing the provision of offsets and ensuring they will be maintained over time is likely to be problematic but would be critical to offsetting having integrity over the time by ensuring nature and wildlife can establish or recover and ecosystems can function. Overseas evidence shows a gap between the principles and the practical experience of offsetting. A review of offsetting in Australia suggests that any ‘net gain’ in biodiversity will take over 100 years to achieve, if at all.⁵ The UK government has proposed a system of ‘conservation covenants’ to secure lasting management but has also conceded that these can be overturned by planning decisions meaning that nature and ecosystems will be in a constant state of flux, being moved and replaced to meet developers’ demands with even offsets being offset if developers want and planning rules permit.
9. **Weakening legal protections** - Offsetting will create additional pressure on nature, biodiversity and natural ecosystems in the UK, Europe and beyond and could weaken existing protections such as the Habitats, Birds and Water Framework Directives, which form important legal backstops for hard-pressed nature.

Evidence from Australia, Germany and north America - A 2014 Senate inquiry into offsetting in Australia heard that “The intention of biodiversity offsets is preferably to achieve a net gain, or at a minimum a no net loss of biodiversity on the ground. However after a decade of offsetting in Australia there are no studies that show this is what occurs in practice. Indeed, studies indicate the opposite.”⁶ In 2017 a review of offsetting in New South Wales found that the policies being pursued would *not* provide no net loss of biodiversity, as proponents had advocated, for 146 years.⁷ Studies of offsetting in Germany, where it has been deployed for over 40 years, show that a substantial proportion of offsetting has failed to achieve the stated objectives with another

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significant number either not being implemented or taking place but failing to meet the aim of compensating for harm. In Canada, a 2013 study of wetland mitigation found that: “Wetland habitat continues to be lost to cumulative effects of development on the landscape...”⁸

The UK’s offsetting pilots - In 2016 the government revealed that its own biodiversity offsetting pilot projects were, at best, inconclusive: “Evidence from the pilot programme suggests that whilst biodiversity offsetting has the potential to deliver improvements in biodiversity outcomes it will require additional resources and ecological expertise in local authorities to deliver it, and will increase costs overall for developers. It is likely that it would, at best, deliver only marginal benefits in terms of streamlining the planning process for agreeing compensation for biodiversity loss.” (p 63)⁹

The pilots also revealed the failure of developers’ planning applications to address the need for no net loss and net gain, which the government had confidently claimed would be the case in its 2013 Green Paper: “The pilot hosts all stated...that the application of the metric in particular highlighted the current and on-going failure of planning applications to meet the objective of no-net-loss, or achieve net-gain of biodiversity. It is apparent that the current system needs to be improved in some way if no-net-loss policy is to be met.” (p6) In its Green Paper, the government said it would only introduce offsetting if it was satisfied that doing so will:

- Improve the delivery of requirements in the planning system relating to biodiversity so it is quicker, cheaper and more certain for developers.
- Achieve net gain for biodiversity by: ensuring that the number of biodiversity units lost at a development site is equally matched by the number of biodiversity units replaced at an alternative site (ensuring “no net loss”); and seeking to locate offsets in a way that enhances ecological networks (achieving “net gain”).
- Avoid additional costs to businesses. This will ensure it is consistent with Government’s commitments: not to increase net burdens on housing developers over the Spending Review 2010 period; and to one-in, two-out on all regulatory burdens.

This gives the game away that offsetting is being promoted more as a way to reduce perceived costs and regulatory burdens on business than about being a guaranteed, trusted way to protect and restore declining nature and ecosystems in the UK.

Currently, developers, landowners and local councils are doing their own thing by devising their own forms of offsetting in the absence of a robust official standard with the proper controls, ways of measuring and enforcing standards and guaranteeing delivery to high standards. Meanwhile, Natural England is due to update Defra’s Biodiversity Metric which was originally developed for the 2012 pilots, and some attempts have been made to provide good practice guidance.¹⁰ We also await the government’s next consultation or plans on offsetting and net gain.

Conclusions

Many areas of England are biodiversity deserts with ecosystems that are already fragile. The UK must concentrate on the rapid and urgent restoration and reversal of nature’s

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decline. The compromises have already been made and there is no place for half measures such as offsetting and net gain.

Habitat restoration and creation is not best secured by allowing tradable destruction of habitats elsewhere. Evidence from countries where offsetting has been practiced for decades, and even from the UK's own recent unconvincing pilots, is that offsetting is not working. Yet it is being hyped as a benign response to nature's decline. Such optimism provides policy cover for politicians and economic benefit for businesses banking on offsetting as way to maintain business as usual, as a source of income, and allowing questionable development to proceed.

The government must put full effort behind proper, proven conservation action to restore vibrant abundant nature and fully functioning ecosystems, not dubious marketised trading schemes. These should include use of incentives to protect, retain and restore nature, to encourage habitats across farmland, not just on field margins, and to properly enforce requirements to manage designated wildlife sites, as well as delivering true benefits for biodiversity through strong planning policies implemented by competent local councils and their advisers.

1 Evaluation of the Biodiversity Offsetting Pilot Phase, 2014, Collingwood Environmental Planning Limited with the Institute for European Environmental Policy (IEEP)
<http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=18229#Description>

2 Biodiversity offsetting, Options Impact Assessment, IA No: DEFRA 1126, 2013.
https://webcache.googleusercontent.com/search?q=cache:YvWLzY-ZJ1gJ:https://consult.defra.gov.uk/biodiversity/biodiversity_offsetting/supporting_documents/20130829Biodiversity%2520offsetting%2520IA.pdf+&cd=1&hl=en&ct=clnk&gl=uk

3 Draft revised National Planning Policy Framework, March 2018, Ministry of Housing Communities and Local Government
<https://www.gov.uk/government/consultations/draft-revised-national-planning-policy-framework>

4 Ancient woods face axe in drive for home, 2014, The Times www.thetimes.co.uk/tto/environment/article3965473.ece

5 Gibbons P., Macintosh A., Constable AL., Hayashi K, Outcomes from 10 years of biodiversity offsetting, 2017, Global Change Biology
<https://onlinelibrary.wiley.com/doi/abs/10.1111/gcb.13977>

6 Submission in response to Senate Inquiry into Environmental Offsets, 2014, Environment Justice Australia
www.envirojustice.org.au/projects/senate-offsets-inquiry/

7 Ibid, page 5

8 Westbrook, CJ., & Noble, BF., (2013) Science requisites for cumulative effects assessment for wetlands, Impact Assessment and Project Appraisal, 31:4, 318-323. <https://www.tandfonline.com/doi/full/10.1080/14615517.2013.833408>

9 Evaluation of the Biodiversity Offsetting Pilot Phase, 2014, Collingwood Environmental Planning Limited with the Institute for European Environmental Policy (IEEP)
<http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=18229#Description>

10 Biodiversity Net Gain: Good practice principles for development, 2016, Chartered Institute of Ecology and Environmental Management (CIEEM), Construction Industry Research and Information Association (CIRIA) and Institute of Environmental Management & Assessment (IEMA) www.cieem.net/biodiversity-net-gain-principles-and-guidance-for-uk-construction-and-developments