



# **LNP Evaluation: Draft Thematic Discussion Paper**

**Biodiversity offsetting: what is LNPs' role?**

**05 July 2014**

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## Note on status of discussion paper

This discussion paper is a draft working document and will be revised.

## Biodiversity offsetting: what is the LNP's role?

This discussion paper is part of the Local Nature Partnership (LNP) Phase II Evaluation that ICF International is currently finalising for the Department for Environment Food and Rural Affairs (Defra). The aim of the evaluation is to examine the implementation and outcomes of LNPs, and support and enable LNPs to work with representatives from other partnerships and organisations to determine the potential to improve coordination between other initiatives.

### **This paper covers LNPs' potential role in biodiversity offsetting.**

This paper includes a brief summary of the policy context and the potential role for LNPs in different biodiversity offsetting mechanisms. The paper is based on an evidence review, interviews with LNPs and a workshop with LNPs about biodiversity offsets. The workshop was attended by 9 LNPs members and two representatives from Defra. The workshop covered the following points:

- Which structures and processes should be put in place to develop biodiversity offsets?
- What could or should LNPs role be with regard to biodiversity offsetting?
- What are the key obstacles and opportunities associated with biodiversity offsetting?

This paper starts with a brief overview of the policy background for biodiversity offsetting in England and then follows the three questions presented above.

## Policy background

### Definition of biodiversity offsets

Defra defines biodiversity offsetting as '*conservation activities that are designed to give biodiversity benefits to compensate for losses - ensuring that when a development damages nature (and this damage cannot be avoided or mitigated) new, bigger or better nature sites will be created. They are different from other types of ecological compensation as they need to show measurable outcomes that are sustained over time.*'<sup>1</sup>

Biodiversity offsetting is considered by the UK Government as potentially providing a way to meet existing requirements of the National Planning Policy Framework and other planning regimes with regard to biodiversity and geological conservation.<sup>2</sup>

### Current legal framework

#### *The voluntary framework*

There is currently no legal mandatory requirement for offsetting in the UK, beyond the EU Habitats Directive requirements for compensatory measures for impacts on Natura 2000 sites and on strictly protected species. When applied in England, biodiversity offset is thus voluntary. The current legal framework is relatively complex as biodiversity offset can be based on different legal text and Defra is currently reviewing the existing legal framework.

The existing legal frameworks for the use of biodiversity offset in England are the following:

- The Countryside and Rights of Way Act (2000), updated by the Natural Environment and Rural Communities Act (2006), imposes what is known as the 'Biodiversity Duty' on certain public authorities –including local planning authorities (LPAs) – which requires that they must "have regard, so far as is consistent with the proper exercise of [their] functions, to the purpose of conserving biodiversity". This duty, along with associated

<sup>1</sup> <https://www.gov.uk/biodiversity-offsetting>

<sup>2</sup> Section 11 of the NPPF on Conserving and enhancing the natural environment, paragraphs 109 to 119, is particularly relevant. The full NPPF is available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

requirements under the planning framework (see below) have resulted in some planning authorities seeking compensation for impacts on biodiversity, including the use of offsets.

- In 2012, the Department for Local Communities and Government published the new National Planning Policy Framework (NPPF)<sup>3</sup>. The NPPF states that the achievement of sustainable development includes ‘moving from a net loss of bio-diversity to achieving net gains for nature [also referred to as No Net Loss (NLL)]’ (para 9) and that ‘the planning system should contribute to...minimising impacts on biodiversity and providing net gains in biodiversity where possible’ (para 118). Furthermore, paragraph 118 also states that “When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for [emphasis added], then planning permission should be refused”.

It may therefore be argued that NNL is in effect mandatory, and that offsetting is also mandatory for significant residual impacts. Some local authorities are therefore requiring developers to achieve NNL and carry out offsetting where necessary according to this policy, such as in Warwickshire (which is a pilot offset area). However, this is not applied in the majority of England, as Local Plans, which are the primary consideration in planning decisions and need to provide the legal requirement for offsetting, are in most cases not NPPF compliant yet.

In parallel to this, the UK government announced in its Natural Environment White Paper published in 2011<sup>4</sup>, its intention to establish a new voluntary approach to biodiversity offsetting and test this in different pilot areas. In April 2012 Defra launched a two year national biodiversity offsetting pilot programme to test different approaches to offsetting. In parallel to the pilot programme, Defra is working with a range of organisations interested in biodiversity offsetting on complementary projects to improve their understanding of biodiversity offsetting and developing the evidence base.<sup>5</sup>

Despite encouragement from the Government and assurances that the scheme should not be an additional burden to businesses, the uptake of pilot offsets by developers has been disappointing, with no developments expected to use offsets within the two-year pilot period. An independent evaluation of the pilot programmes and of the results of the complementary projects are currently being finalised and are expected to be published in October 2014.

### *Consideration of a mandatory framework*

In addition to the pilot programme, Defra launched a public consultation on biodiversity offsetting in September 2013. The objective of this consultation was to gather opinions on the different biodiversity offsetting systems as proposed by the UK Government in its Biodiversity Offsetting Green Paper.<sup>6</sup> The different options presented in the Green Paper are:

- A **fully permissive approach** where developers could choose whether to use the offsetting metric to assess their project’s impacts and choose the means of securing compensation (i.e. through a section 106 agreement<sup>7</sup> or by obtaining an offset);

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228842/8082.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228842/8082.pdf)

<sup>5</sup> Defra is working with the following organisations: Atkins, Aggregates Industries, Balfour Beatty, Eco Bos and Code 7 consulting, Golder Associates, Doncaster Metropolitan Borough Council and the Yorkshire Wildlife Trust, The Somerset Biodiversity Partnership, Worcestershire County Council.

<sup>6</sup>

[https://consult.defra.gov.uk/biodiversity/biodiversity\\_offsetting/supporting\\_documents/20130903Biodiversity%20offsetting%20green%20paper.pdf](https://consult.defra.gov.uk/biodiversity/biodiversity_offsetting/supporting_documents/20130903Biodiversity%20offsetting%20green%20paper.pdf)

<sup>7</sup> ‘Section 106’ (S106) of the Town and Country Planning Act 1990 allows a LPA to enter into a legally-binding agreement with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement. Obligations under S106 can also be secured through unilateral undertakings by developers.

- A **partially permissive approach** where developers might be required to use the offsetting metric to assess their project's impacts and then be free to choose to the means of securing compensation (i.e. through a section 106 agreement or by obtaining an offset);
- A **uniform approach** where development projects that exceed a certain threshold would be required to use the offsetting metric to assess their project's impacts and to obtain an offset as the mechanism for compensation. Developments below the threshold would be able to opt-in to using offsetting – i.e. using the permissive approach. One of the options considered to set the threshold is to use the size of the project as criteria. This would have a direct impact on the number of projects that would need to undertake offset and on the amount of offset required.
- A **Community Infrastructure Levy<sup>8</sup> based approach**. Under this approach developers would not directly secure offsets. Instead the charging authority, usually the planning authority, would purchase offsets sufficient to compensate for the aggregate impact on biodiversity of developments in their area. The offsets would be funded by the levy collected by the planning authority and so would need to be built into their charging schedule. The funds need not be ring-fenced for biodiversity but could be part of the general levy receipts to be used to fund infrastructure. However, local authorities would have to make sure that the proposed biodiversity projects fall within the ambit of "infrastructure". Moreover, mechanisms would need to be put in place to ensure that the funds levied by the local authorities for biodiversity offset reasons are actually invested in biodiversity conservation projects and not in other infrastructure projects.

In its impact assessment on biodiversity offsetting published in August 2013, the government indicated its preference for a voluntary scheme under the form of a fully permissive approach. However, the government is still exploring the possibility to establish a mandatory framework. As stated by different LNP members, there is a fear that if biodiversity offset is not made mandatory it will never deliver tangible results on a large scale. This vision is supported by the Environmental Audit Committee of the UK Parliament which stated that: "A mandatory, rather than voluntary, offsetting system would encourage a market to develop, which would in turn allow more environmentally and economically viable offset projects to be brought forward". The Committee also stated that the limited uptake of biodiversity offsets in the pilots indicates that a mandatory system is probably desirable, but should first be evaluated in details.

No decision on the potential mandatory legal frameworks have been made so far and Defra will analyse the results of the different pilot schemes in details before making any further proposals.

### Factors governing biodiversity offsets

Although the framework for biodiversity offsetting in England may change in the future, a series of factors generally governing and delimiting biodiversity offsets have been identified in the Biodiversity Offset Green Paper published by Defra in 2013. Key elements of this Green Paper include:

- **No net loss perspective:** Biodiversity offsetting is considered as key in the UK strategy to guarantee no net loss from development. Offsets compensate for the residual losses and are secured for the long term. Moreover they provide scope to achieve an overall net gain for biodiversity through locating the right offsets in the right place to improve ecological networks.

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<sup>8</sup> The Community Infrastructure Levy was established by Section 205 of the Planning Act 2008 and empowers local authorities to charge a levy on most types of development in their area. The money raised can be used to support development by funding infrastructure that the council, local community and neighbourhoods want. The detailed provisions for implementing the Community Infrastructure Levy (CIL) are set out in the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy (Amendment) Regulations 2011).

- **The mitigation hierarchy:** One of the key elements governing biodiversity offsetting is the mitigation hierarchy, which is used to define when biodiversity offset should be considered. It states that:
  - In the first instance harm should be **avoided**, for instance by locating development at a different site;
  - Where this is not possible the impacts should be **mitigated**, for instance through the detailed design of the development;
  - Lastly any residual impacts should be **compensated** for, for instance by restoring or recreating habitat elsewhere.
- **Scientific and legal limitations on offsetting:** In theory offsetting has the potential to be applied everywhere as it allows the quantification of impacts on nature and the compensation of any loss by environmental gain elsewhere. In practice there are several scientific and legal limitation on offsetting:
  - Some habitats cannot be recreated on a meaningful timetable;
  - Existing EU and UK legislation sets clear limits to when and where compensation for impacts is acceptable. For example, under the Habitats Directive plans or projects adversely affecting a European site are only allowed if (1) there are no feasible alternatives, (2) there are imperative reasons of overriding public interest (IROPI) and (3) the integrity of the Natura 2000 network is maintained. Offsetting cannot cut across this and other similar legal protections.
  - Similarly some species have strong protection under the Habitats Directive and any proposed offsetting approach that affected such species would need to adhere to these extant legal protections.

## Elements necessary to implement biodiversity offsets

In its Green Paper and in different guidance documents Defra has identified a series of players and elements which will have to be put in place in order to develop biodiversity offsetting schemes. Key elements of this enabling framework include:

- **Offset providers (Seller):** Offset providers supply offsets to developers who, as a result of the requirements of planning policy, must provide compensation for biodiversity loss resulting from development activity. An offset provider delivers a quantifiable amount of biodiversity benefit to offset the loss of biodiversity resulting from development. The losses and gains are measured in the same way, even if the habitats concerned are different.<sup>9</sup>
- **Developers using biodiversity offsets (Buyer):** These can either provide the biodiversity offset themselves or commission an offset provider to provide them the required biodiversity offsets.<sup>10</sup>
- **Certifying body to ensure the quality of biodiversity offsets:** As stated in Defra's Green Paper, covenant and management agreements between the offset providers and the developers will probably be necessary to ensure offsets secure biodiversity gain for the long term and avoid the risk of net loss of biodiversity. In order to ensure the quality of these agreements and make sure they are enforced, a certifying body or individual might be required.

<sup>9</sup> Full guidance for offset providers are available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69530/pb13742-bio-guide-offset-providers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69530/pb13742-bio-guide-offset-providers.pdf)

<sup>10</sup> Full guidance for project developers are available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69528/pb13743-bio-guide-developers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69528/pb13743-bio-guide-developers.pdf)

- **Body managing the offset register:** By their nature, biodiversity offset have to last for a certain period of time<sup>11</sup>. In order to prevent a single offset being used to provide compensation for multiple projects, an offset register might need to be set up together with a suitable body to run the register.
- **The offset metric:** Any biodiversity offset system has to be underpinned by a standard metric which enables the offset providers and project developers to quantify the impacts of their activities on biodiversity on a standardised way. It forms the basis of the system and allows biodiversity losses and gains affecting different habitats to be compared and ensure offsets were sufficient to compensate for residual losses of biodiversity.
- **Mechanisms to secure offsets against provider failure:** In addition to the covenant and management agreement mentioned above, different options exist to secure offset on the long term. Options being considered include:
  - Financial instrument such as annuity or trust fund that will provide a source of income to manage offsets in the long term;
  - The state could establish a public sector trust fund that would make payments to offset providers over the long term to meet management costs
  - Offset providers could be required to pay into an insurance pool. The pool could be used to cover the risk that the owners of offset sites get into financial difficulty and fail to meet their obligation to create or maintain the offset site.

In addition to these players and key features identified by Defra, the following elements have been identified in the governance structure of the biodiversity pilots:

- **Independent biodiversity offset brokers:** These intermediary players can support the biodiversity offset system by registering potential offset sites and matching them to the needs of the developers and local planning authorities. They can also facilitate the development of offset arrangements on new land.
- **Biodiversity offsetting bank:** In the Warwickshire, Coventry and Solihull biodiversity offset pilot programme, an alternative to matching a developer with an offsetting provider has been set up in the form of a biodiversity offsetting bank. This option allows the developer to pay a fee directly into a local biodiversity offsetting bank. The payment will be equivalent to the fee necessary to purchase the requisite biodiversity units from a provider. All the funds within the biodiversity offsetting bank will then be used for habitat restoration/creation projects in the region.

## How the biodiversity offsetting process occurs

There is no single framework for voluntary biodiversity offsetting. There are a range of options available to project developers and local planning authorities intending to develop and implement biodiversity offsetting. This section provides a short overview of the three options that described in this discussion paper. The diagram in Figure 1.1 presents the key interconnections between the relevant players for each option. **The potential role for LNPs varies by option.**

Certain steps are common to each option:

1. Application of the mitigation hierarchy by the project developers: Project developers should first apply the mitigation hierarchy and then assess whether they have to compensate for the impact of their project on biodiversity or not.

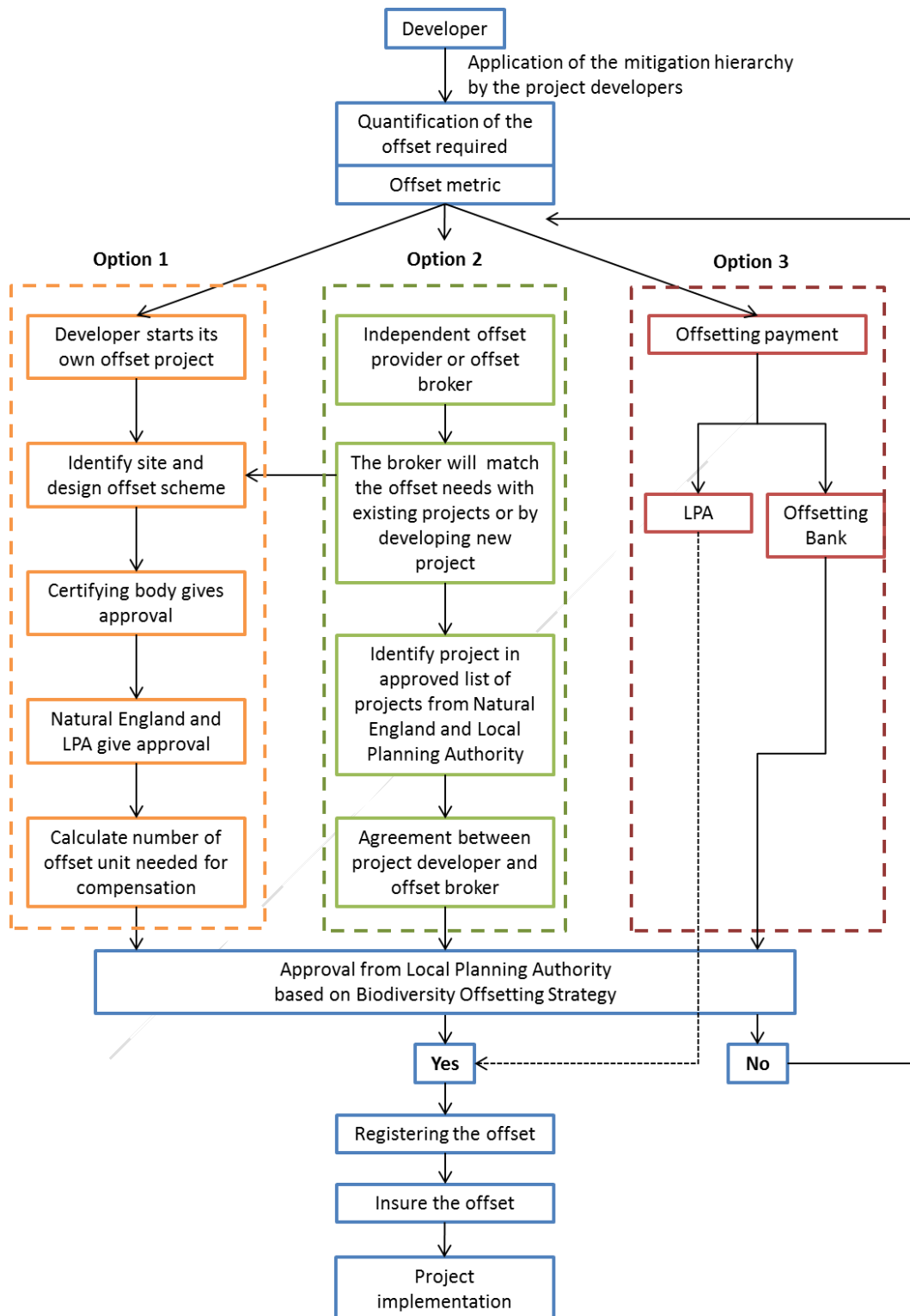
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<sup>11</sup> The time period has not been defined by Defra at this stage. The Natural Capital Committee recently stated that biodiversity offsetting policy currently under consideration would be best set within its proposed 25 year plan. See more information at: <http://nebula.wsimg.com/c64561a921bff59b3b24340dd445fc7c?AccessKeyId=68F83A8E994328D64D3D&disposition=0&alloworigjin=1>



2. Quantification of the offset required: If it appears that compensation is necessary and the project developer choose to compensate through offsetting, project developers should calculate the exact quantity of offset necessary for their project based on the offset metric developed by Defra.
3. Biodiversity Offsetting Strategy: Before developing any biodiversity offsets LPA should publish details of the types of habitats they would like to see created through offsetting, and target areas for offset projects (e.g. linking together valuable wildlife sites, buffering watercourses, etc.).
4. Registering the offset: Offsets should be registered in a biodiversity offset register to keep track of various projects and the allocation of the offset credits.
5. Insure the offset: An insurance scheme should also be put in place to secure offsets against provider failure.

**Figure 1.1** Flow diagram of the different options to develop biodiversity offsets



Source: ICF based on: Environment Bank<sup>12</sup>, North Devon Biosphere<sup>13</sup>, Rugby County Council<sup>14</sup> and Doncaster County Council<sup>15</sup>.

<sup>12</sup>

[http://www.cieem.net/data/files/Resource\\_Library/Conferences/2012\\_Spring\\_Planning/Conference\\_Spring\\_2012-08\\_Tom\\_Tew.pdf](http://www.cieem.net/data/files/Resource_Library/Conferences/2012_Spring_Planning/Conference_Spring_2012-08_Tom_Tew.pdf)

<sup>13</sup> [http://www.northdevonbiosphere.org.uk/uploads/1/5/4/4/15448192/offsetting\\_strategy\\_v5.pdf](http://www.northdevonbiosphere.org.uk/uploads/1/5/4/4/15448192/offsetting_strategy_v5.pdf)

### Option 1: Project developers develop their own offset sites

- **Role of the project developers:** Under this option, the project developer will have to identify an appropriate site and design a biodiversity offset project. It is suggested that project developers consult their LPA early in the development of their biodiversity offset proposal as the LPA will have to eventually approve their proposal. Prior to the LPA approval, project developers will have to get a quality check by an independent certifying body and by Natural England.
- **Role of the LPA and legal basis:**
  - LPA will have to consider the offset proposal submitted by the project developers in light of the advice from Natural England and the certifying body. They will then have to assess whether the proposal is acceptable in planning terms. If they accept the proposal LPA will have to use one of the mechanisms available in the planning system in order to provide a certain and enforceable requirement to provide compensation.
  - Under this option the LPA can choose among two different instruments:
    - An S106 agreement, which allows an LPA to enter into a legally-binding agreement with a landowner in association with the granting of planning permission.
    - The establishment of planning condition under the Town and Country Planning Act, which imposes conditions on the granting of planning permission.
- **Potential role of the LNP:**
  - LNP could play a key role to support the LPA in drafting the local biodiversity offset strategy.
  - LNP could play a role in the appointment of the certifying body which will help Natural England and the LPA to ensure that offsets secure biodiversity gain for the long term and avoid the risk of net loss of biodiversity. Depending on their capacity, LNPs could either play the role of certifying body or support the selection procedure.

### Option 2: Project developers purchase biodiversity offsets

- **Role of the project developers:** Under this option, project developers can either purchase biodiversity offsets from a biodiversity offset broker or an independent offset provider. This requires less work for project developers as the broker will either match the offset needs with an existing offsetting project or ensure the development of a new offsetting project. Once the adapted project has been identified, an agreement will be settled between the offset provider, the offset broker and the project developer. The proposal will then be subject to LPA's approval. It is important to stress, that project developers also have the possibility to directly contact independent offset providers without having to work with an offset broker.
- **Role of the LPA and legal basis:** The role of the LPA and the legal basis is the same as in the previous option.
- **Potential role of the LNP:** In addition to the roles already identified under option 1, LNP could under this scenario play a role in the relations between the project developers, the offset brokers and the offset providers. In some areas LNP are considering the possibility to act as biodiversity offset broker.

#### Box 1 : LNP as biodiversity offset broker

Wild Anglia - the LNP for Norfolk or Suffolk - and local authorities negotiated with project developers to identify options to mitigate the environmental and biodiversity impact of a planned housing

<sup>14</sup> [https://www.rugby.gov.uk/site/scripts/download\\_info.php?fileID=5876](https://www.rugby.gov.uk/site/scripts/download_info.php?fileID=5876)

<sup>15</sup> <http://www.doncaster.gov.uk/Images/Doncasters%20Biodiversity%20Offsetting%20Process37-99742.pdf>

development. The parties agreed that the project developers would, under the terms of a S106 agreement, finance biodiversity compensation activities in the local area. To manage the fund of S106 payments, Wild Anglia and Norfolk County Council created the 'Connecting Nature Fund'. The fund will use mitigation funds from local developers to support habitat development in Norfolk – no precision was given about what the exact support would be, i.e., creation of new habitat or enhancement of existing one. Wild Anglia LNP will de facto act as the offset broker, negotiating directly with the project developers about the nature, location and type of offset schemes created.

Based on this experience Wild Anglia LNP is considering establishing the partnership as a local branch of existing biodiversity offset brokers, such as the Environment Bank, or potentially as an independent biodiversity offset broker. Acting as an offsets broker could potentially provide the LNP with a source of funding.

*Source: Stakeholder consultation*

### Option 3: Project developers contribute to a biodiversity offset bank or fund

- **Role of the project developers:** Under the third option, project developers would not directly secure offsets. Instead this would take the form of either an offsetting payment to a biodiversity offset bank, or a payment to the local authority under the framework of the Community Infrastructure Levy.
  - In the first case, which does not exist under the current framework, the offsetting bank would then invest the collected fund into habitat restoration/creation projects.
  - In the second case, the charging authority, usually the planning authority, would purchase offsets sufficient to compensate for the aggregate impact on biodiversity of developments in their area. The offsets would be funded by the levy collected by the planning authority and so would need to be built into their charging schedule. The funds would not need to be ring-fenced for biodiversity but could instead be part of the general levy receipts used to fund infrastructure investments.
- **Role of the LPA and legal basis:** Under this option, the LPA has more responsibilities as they have to directly or indirectly manage the fund which will use the offset finances to re-invest in biodiversity conservation projects. This option could be established through Section 106 agreements with individual projects, or through the inclusion of biodiversity compensation fees into Community Infrastructure Levy.
- **Potential role of the LNP:** In addition to the roles already identified under option 1, LNP could under this scenario have additional responsibilities:
  - As stated in the Box above, LNP could play a key role in the management of the biodiversity offsetting fund, which could be similar to the “Connecting Nature Fund” established by Wild Anglia and the Norfolk County Council.
  - LNP could play a key role in the monitoring and audit of the independent offsetting bank or of the fund created by the local authorities. The LNP could also play an advisory role on how the fund should be spent.
  - Moreover, mechanisms would need to be put in place to ensure that the funds levied by the local authorities for biodiversity offset reasons are actually invested in biodiversity conservation projects and not in other infrastructure projects. LNP could play a key role in these mechanisms.

### Box 2 : LNP as controller or manager of the biodiversity offsetting fund

The Warwickshire, Coventry and Solihull's Local Biodiversity Offsetting Strategy specifies a distinct role for the local LNP. The sub-regional local authorities offer planning applicants the option of making a financial payment instead of securing their own offset scheme. Along other organisations, the LNP is responsible for the monitoring and reporting of all

income and expenditure of the different funds, the amount of offsets, where they have come from and where they have been offset.

In Dorset, a 'Biodiversity Protocol' was established by the County Council. The idea behind this protocol is that, while large scale projects often take biodiversity into account the additional impact of small scale projects is often not recognised and not compensated for. The Dorset LPA requires all projects on a development site (greenfield or brownfield) over 0.1ha in size to submit a Biodiversity Appraisal and a Biodiversity Mitigation Plan together with their Planning Application. In cases where it appears that it is not possible to fully mitigate for the loss of biodiversity on a development site, the applicants are encouraged to avoid residual losses via offsite compensation measures. These measures can either take the form of physical enhancement to a site elsewhere in the control of the applicant (Option 1) or be a financial contribution to an offsetting fund (Option 3). The role of the LNP in the management of the offsetting fund was discussed and it was decided that, while the LNP could play support the management of the fund, its input would be more valuable and appropriate at strategic level.

The table below summarises the role of the different players for each scenario. In this table the potential role assigned to LNPs are additional from options 1 to 3. More details about these potential roles are provided in Table 1.2.

**Table 1.1 Summary of potential stakeholder roles in different options for biodiversity offsetting**

Option	Project developers	LPA	LNP
<b>Common to all options</b>	Apply the mitigation hierarchy Quantify the offset required Register the offset Insure the offset	Design a biodiversity offsetting strategy Register the offset Insure the offset	Design a biodiversity offsetting strategy
<b>Option 1</b>	Identify an appropriate site and design a biodiversity offset project Receive quality check Receive LPA's approval	Evaluate the biodiversity offset project proposal based on different advices	Contribute to the appointment of the certifying body
<b>Option 2</b>	Purchase biodiversity offsets from a biodiversity offset broker or an independent offset provider Receive LPA's approval	Evaluate the biodiversity offset project proposal based on different advices	Contribute to relations between the project developers, the offset brokers and the offset providers Act as local offset broker
<b>Option 3</b>	Make offsetting payment to biodiversity offset bank, or a payment to the local authority Receive LPA's approval	Directly or indirectly manage the fund which will use the offset finances to re-invest in biodiversity conservation projects	Contribute to the management of the biodiversity offsetting fund Contribute to the monitoring and audit of the independent offsetting bank or of the fund

## Which role for LNP in the biodiversity offsetting process

### LNPs' potential roles

LNP could potentially have a role to play in all the implementation options identified above. The most appropriate LNP role will depend on the stakeholders participating in the LNP, and the capacity of the LNP to get involved.

A key question regarding the role of LNPs is whether they should have an implementation role or an advisory role. During the workshop some LNP members were of the opinion that an advisory role is more suited to LNPs' structure, strategy and resources. Moreover, as in many cases, LNP are not established as an executive body, this would better fit with their mandate. On the other hand, some LNP members considered that being actively involved in the management of a scheme and its implementation would provide the opportunity to reinforce LNPs' mandate, and could also offer a source of LNP funding.

**Error! Reference source not found.** provides an overview of the potential role for LNPs in the development and operation of a biodiversity offsetting system.

**Table 1.2 Potential role for LNPs in the development of biodiversity offset systems**

Key elements needed to enable biodiversity offsetting	Potential role for LNP
Assessment of the desirability of developing a biodiversity offset at local level	LNP members stressed the important role of the LNPs in this process. LNPs could support the assessment of whether biodiversity offsetting is appropriate in their area or not and make sure that offsetting is considered as last resort in the mitigation hierarchy.
Development of a Biodiversity Offsetting Strategy	<p>LNPs could serve as link between the local authorities and the local developers during the development of the Biodiversity Offsetting Strategy.</p> <p>LNPs could help the local authorities decide which implementation option is the most adapted to the local level.</p> <p>LNPs could establish a series of criteria's or guiding principles for the local biodiversity offset strategies.</p>
Identification of priority areas or habitats for offsetting to feed into the Biodiversity Offsetting Strategy	LNPs could play a key role in the strategic spatial mapping of the areas they cover. As they embrace many different players they could coordinate the process of "opportunity mapping" and identify which areas should be prioritised for biodiversity offsets.
Communication of the biodiversity offset strategies to the stakeholders	<p>Once a strategy is established, LNPs should endorse it. This endorsement could facilitate the buy-in of landowners and project developers.</p> <p>LNPs could serve as channel to spread and publicise the local biodiversity offset strategies.</p>
Application of the mitigation hierarchy by the project developers	LNPs could play a role in making sure that offsetting is considered as last resort in the mitigation hierarchy.
Quantification of the offset required	Due to their access to environmental records and datasets, LNPs could support the application of the offset metric.
Setting up biodiversity offset brokers and biodiversity offsetting bank	<p>LNPs could represent or serve as link for their local authorities with offset brokers and banks.</p> <p>LNPs could act as local biodiversity offset brokers.</p>
Monitoring of the biodiversity offset system	LNPs could play an important role in the overseeing, monitoring and certification of the biodiversity offset system.
Registering the offset	As part of their monitoring role LNPs could overview the mechanism to register offset. However, depending on the future legal framework this might not happen at local level.
Insure the offset	As part of their monitoring role LNPs could overview the mechanism to insure offset.

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**Key elements needed to enable biodiversity offsetting**    **Potential role for LNP**

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Other role along the process    As LNPs covers different counties, they could play a strategic role regarding offset provision to maximise benefits for local ecological networks. This would moreover enable inter-operability and create a larger offset offer in terms of geographical cover.

Given their access to a variety of stakeholders, LNPs could encourage interested developers to participate and help them to find potential offset providers.

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### Perceived barriers

A series of barriers for LNPs to act on biodiversity offset was identified by the LNP members who participated to the workshop organised in June 2014. The key barriers are summarised below:

- The biggest obstacle is the threat of a changing legal framework due to the expected legislative development. LNPs, who already have very limited resources, don't want to invest time and resources in the development of a scheme which they will then have to modify based on the new legislation.
- Another key barrier which was recognised by all the workshop's participants is the LNPs' lack of capacities and resources to play a significant role in the implementation of the biodiversity offset systems.
- In addition to this lack of resources, different LNP members stressed that the LNPs' role towards biodiversity offsetting is not clearly recognised in their mandate. They therefore feel that they lack credibility to act on this topic.
- A few LNP members also stressed that the diversity of the LNP board's composition could create obstacles for the involvement of the LNPs in biodiversity offsetting schemes, as conflict of interest could easily occur. For example, if an LNP had to provide independent advice on an offsetting project proposed by a project developer, who would himself, be represented in the LNP.
- Another challenge identified during the workshop relates to the difficulty to access the robust and reliable data necessary to put a sound biodiversity offsetting scheme in place. The difficulty to access suitable land was also highlighted as one of the key challenges due to the diversity of land uses and land management agreements. However, these two challenges relate more to the nature of biodiversity offsetting than the role of LNP in these systems.

### Perceived opportunities

In response to the obstacles listed above, the workshop participants also identified a series of opportunities for LNPs:

- Through their focus on overarching strategies, such as Biodiversity 2020, and (often) access to detailed ecological datasets, LNPs can play a technical advisory role in setting offsets within a coherent landscape strategy so as to maximise conservation benefits - this can also provide a link to wider strategic objectives, such as ecological networks.
- Different LNP members stressed that considering the structures that need to be put in place to realise biodiversity offsets, there are different opportunities for LNP to get involved and have access to new revenue streams. These could take different forms:
  - Given that in some cases LPAs lack the capacities to make efficient use of the compensation aimed at biodiversity offsetting, LNPs could propose to play the role of statutory advisor on how to implement compensation within the planning process. A service fee could be asked for this task;

- Due to their composition, LNPs have (often) access to large local environmental records and datasets. As these data will probably be needed to use the offset metrics developed by Defra, different LNP members consider that their use could generate some financing for the LNPs’ activities. Moreover, without regular maintenance of records, the value of this information declines significantly. Their need for the offset metric could provide an impetus for better and more regular monitoring. Finally, the data collected for the offset metrics could be used for other purposes – such as the development of ecological networks and thus lead to co-benefits.
- As mentioned in Box 2, some LNP are also considering the possibility to act as biodiversity offset brokers and to generate revenues through that particular activity.
- Due to their composition and their potential presence along the whole biodiversity offsetting process, it is also considered that LNP could play an important communication role to ensure clarity around the concept of biodiversity offsetting. This could take different forms and serve different objectives:
  - Offsets and other compensation measures are often controversial due to a perceived lack of transparency and low confidence in the link between compensation outcomes and ecological benefits. LNPs could thus play a key advocacy role in promoting better public understanding and support for offset measures by enforcing greater transparency in the process.
  - LNPs could play an important role in engaging the ‘hearts and minds’ of landowners, to securing access to (increasingly scarce) land for offsetting, and ensuring the maintenance of the land for this purpose over the long term. Through their advocacy and communication role, LNPs could help represent the collective interests of local landowners whilst building the case for their participation within associated land management agreements.
- Due to their composition, the LNPs have the potential to overcome local politics and are by their nature longstanding institutions. Based on these two elements LNPs have the potential to play an important role in the long term management and/or overseeing of the biodiversity offset systems, which is crucial given the nature of biodiversity offset.
- Finally, the offset metric developed by Defra was considered as a very interesting tool to help local authorities, developers and the local communities make sure that the mitigation measures associated with a particular project are sufficient to ensure no net biodiversity loss. However, some LNP members fear that if the metric is not applied uniformly by the different stakeholders, we might end up in a situation where each player makes its own calculation resulting in conflicting results. There might be a role to play here for LNPs: LNPs could not only encourage the use of the metric as a way to provide clarity around impacts to local habitats but they could also ensure coordination in the use of the metrics and thus make sure that overlapping calculations are avoided.

These different opportunities could moreover help LNP raise their profile and help them sustain and reinforce their position in the local context.

## Information sources

**Table 1.3 Key publications from the local authorities which participated to the biodiversity offset pilots**

Author	Year	Title	Comments
Defra and Natural England	2012	Biodiversity Offsetting Pilots - Guidance for offset providers <sup>16</sup>	Defra and Natural England published a series of guidance providing advice on biodiversity offsetting for providers and

<sup>16</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69530/pb13742-bio-guide-offset-providers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69530/pb13742-bio-guide-offset-providers.pdf)



Author	Year	Title	Comments
Defra and Natural England	2012	Biodiversity Offsetting Pilots - Guidance for developers <sup>17</sup>	developers of schemes in pilot areas. These guidance documents are also helpful for other authorities wishing to integrate biodiversity offsetting within their planning policy.
Defra and Natural England	2012	Biodiversity Offsetting Pilots - Information note for Local Authorities <sup>18</sup>	
Defra	2013	Webinar - Biodiversity offsetting in England Green Paper <sup>19</sup>	Defra has also participated to a webinar organised by the Business and Biodiversity Offsets Programme (BBOP) to present their Green Paper. This webinar presented by John Kilner and followed by a Q&A session.
Business and Biodiversity Offsets Programme	2009	Biodiversity Offset Implementation Handbook <sup>20</sup>	This document specifically looks at how the planners can put the mechanisms in place to ensure sound implementation, permanence and good governance of the biodiversity offsets. It offers a discussion of the potential roles and responsibilities of potential stakeholders, legal and institutional aspects of establishing an offset, and how an offset management plan can be developed.
Bull J.W., et al.	2013	Biodiversity offsets in theory and practice <sup>21</sup>	A multitude of academic papers exists tackling the different theoretical issues associated with biodiversity offsetting. While most of these papers do not address the practical implementation of biodiversity offset, others specifically take this aspect into account and identify best practices and design recommendations.

<sup>17</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69528/pb13743-bio-guide-developers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69528/pb13743-bio-guide-developers.pdf) and [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/218680/1204-bio-offset-pilot-appendix.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/218680/1204-bio-offset-pilot-appendix.pdf) (appendix)

<sup>18</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69529/pb13744-bio-local-authority-info-note.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69529/pb13744-bio-local-authority-info-note.pdf)

<sup>19</sup> <http://vimeo.com/77714264>

<sup>20</sup> [http://www.forest-trends.org/documents/files/doc\\_3092.pdf](http://www.forest-trends.org/documents/files/doc_3092.pdf)

<sup>21</sup>

<http://www.prasinogroup.com/pdfs/Biodiversity%20Offsets%20Theory%20and%20Practice%20REVIEW%202013.pdf>